

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
92nd General Assembly  
Regular Session, 2019

# A Bill

HOUSE BILL 1072

By: Representative A. Davis

By: Senator Hester

## For An Act To Be Entitled

AN ACT TO CREATE THE TRANSFORMATION AND EFFICIENCIES ACT OF 2019; TO ESTABLISH CABINET-LEVEL DEPARTMENTS; TO ESTABLISH THE CABINET-LEVEL DEPARTMENT OF HEALTH; TO TRANSFER VARIOUS STATE AGENCIES; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

## Subtitle

TO CREATE THE TRANSFORMATION AND EFFICIENCIES ACT OF 2019; TO ESTABLISH CABINET-LEVEL DEPARTMENTS; TO ESTABLISH THE CABINET-LEVEL DEPARTMENT OF HEALTH; TO TRANSFER VARIOUS STATE AGENCIES; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 25, Chapter 43, is amended to add an additional subchapter to read as follows:

### Subchapter 8 – Department of Health

#### 25-43-801. Department of Health.

There is created the Department of Health as a cabinet-level department.

#### 25-43-802. State entities transferred to the Department of Health.

(a) The administrative functions of the following state entities are



transferred to the Department of Health pursuant to a cabinet-level department transfer:

(1) The Advisory Board for Interpreters Between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf, created under § 20-14-804;

(2) The Advisory Committee on Healthcare Acquired Infections, created under § 20-9-1204;

(3) The Advisory Council to the Arkansas Youth Suicide Prevention Task Force, created under § 20-77-1607;

(4) The Arkansas Board of Dispensing Opticians, created under § 17-89-201;

(5) The Arkansas Board of Examiners in Counseling, created under § 17-27-201;

(6) The Arkansas Board of Hearing Instrument Dispensers, created under § 17-84-201;

(7) The Arkansas Board of Podiatric Medicine, created under § 17-96-201;

(8) The Arkansas Commission for the Newborn Umbilical Cord Blood Initiative, created under § 20-8-505;

(9) The Arkansas Dietetics Licensing Board, created under § 17-83-201;

(10) The Arkansas Minority Health Commission, created under § 20-2-102;

(11) The Arkansas Orthotics, Prosthetics, and Pedorthics Advisory Board, created under § 17-107-201;

(12) The The Arkansas Psychology Board, created under § 17-97-201;

(13) The Arkansas Social Work Licensing Board, created under § 17-103-201;

(14) The Arkansas Spinal Cord Commission, created under § 20-8-202;

(15) The Arkansas State Board of Acupuncture and Related Techniques, created under § 17-102-201;

(16) The Arkansas State Board of Athletic Training, created under § 17-93-404;

(17) The Arkansas State Board of Chiropractic Examiners, created

under § 17-81-201;

(18) The Arkansas State Board of Dental Examiners, created under § 17-82-201;

(19) The Arkansas State Board of Nursing, created under § 17-87-201;

(20) The Arkansas State Board of Pharmacy, created under § 17-92-201;

(21) The Arkansas State Board of Physical Therapy, created under § 17-93-201;

(22) The Arkansas State Board of Sanitarians, created under § 17-43-201;

(23) The Arkansas State Medical Board, created under § 17-95-301;

(24) The Arkansas Suicide Prevention Council, created under § 20-45-302;

(25) The Arkansas Surgeon General, created under § 25-43-805;

(26) The Arkansas Tobacco Settlement Commission, created under § 19-12-117;

(27) The Board of Examiners in Speech-Language Pathology and Audiology, created under § 17-100-201;

(28) The Breast Cancer Control Advisory Board, created under § 20-15-1304;

(29) The Cervical Cancer Task Force, created under § 20-9-1102;

(30) The Child Health Advisory Committee, created under § 20-7-133;

(31) The Drinking Water Advisory and Operator Licensing Committee, created under § 17-51-104;

(32) The Emergency Medical Services Advisory Council, created under § 20-13-205;

(33) The Health Services Permit Agency, created under § 20-8-102;

(34) The Health Services Permit Commission, created under § 20-8-102;

(35) The Marine Sanitation Advisory Committee, created under § 27-101-405;

(36) The Medical Ionizing Radiation Licensure Committee, created

under § 17-106-104;

(37) The Prescription Drug Monitoring Program Advisory Committee, created under § 20-7-605;

(38) The Prescriptive Authority Advisory Committee, created under § 17-87-205;

(39) The State Board of Examiners of Alcoholism and Drug Abuse Counselors, created under § 17-27-404;

(40) The State Board of Optometry, created under § 17-90-201;

(41) The State Board of Health, created under § 20-7-102;

(42) The State Hospice Office, created under § 20-7-117;

(43) The State Kidney Disease Commission, created under § 20-15-602;

(44) The State Board of Disease Intervention Specialists, created under 17-98-201;

(45) The Tobacco Prevention and Cessation Program, created under § 19-12-113; and

(46) The Universal Newborn Hearing Screening, Tracking and Intervention Advisory Board, created under § 20-15-1503.

(b) Each entity transferred shall retain its specified statutory duties.

25-43-803. Secretary of the Department of Health.

(a) The executive head of the Department of Health shall be the Secretary of the Department of Health.

(b) The secretary shall be employed by the Governor and shall serve at the pleasure of the Governor.

(c) The secretary may perform all duties to administer the Department of Health, including without limitation:

(1) Delegate to the employees of the Department of Health any of the powers or duties of the department required to administer the:

(A) Statutory duties; or

(B) Rules, orders, or directives promulgated or issued by the state entities transferred to or established within the department.

(2) Hire department personnel;

(3) Perform or assign duties assigned to the Department of Health; and

(4) Perform the duties of any other position within the Department of Health, if the secretary meets all statutory qualifications for that position.

25-43-804. Director.

(a) The Secretary of the Department of Health may employ a Director of the Department of Health.

(b) The secretary may delegate his or her functions, powers, and duties to the director or to other various units or personnel of the Department of Health as he or she shall deem desirable and necessary for the effective and efficient operation of the department.

(c)(1) All other personnel of the department shall be employed by and shall serve at the pleasure of the secretary.

(2) However, nothing in this section shall be so construed as to reduce any right that an employee of the department has under any civil service or merit system.

(d)(1) Each unit of the department shall be under the direction, control, and supervision of the secretary.

25-43-805. Office of Oral Health.

(a) The Department of Health shall maintain an Office of Oral Health.

(b) The Secretary of the Department of Health may appoint a Director of the Office of Oral Health.

(1) The Director of the Office of Oral Health shall be an experienced public health dentist licensed to practice under the Arkansas Dental Practice Act, § 17-82-101 et seq.

(2) The Director of the Office of Oral Health shall:

(A) Plan, direct, and coordinate all dental public health programs with other local, state, and national health programs;

(B) Serve as the department's chief advisor on matters involving oral health; and

(C) Plan, implement, and evaluate all oral health programs within the department.

25-43-806. Arkansas Surgeon General.

(a) The Secretary of the Department of Health may employ the Arkansas

Surgeon General.

(b) If employed by the Secretary of the Department of Health, the Arkansas Surgeon General shall:

(1) Be a graduate of a school of medicine recognized by the Arkansas State Medical Board;

(2) Be licensed and in good standing with the Arkansas State Medical Board; and

(3) Serve as an advisor to the secretary.

(c) The Arkansas Surgeon General shall perform the duties required of him or her by the secretary, including without limitation:

(1) Reviewing, assessing, and developing health policy options, including insurance coverage, health risk management, disease prevention, and health promotion strategies across state agencies;

(2) Providing health policy advice for the secretary and senior state agency officials;

(3) Raising awareness of healthcare and public health areas of priority for advancement of the health of the citizens of Arkansas;

(4) Reviewing legislative analyses and proposed legislation and creating position statements for the Governor and senior state agency officials;

(5) Advising the secretary, senior state agency officials, and governing boards and commissions on policy issues and program accomplishments; and

(6) Providing medical review oversight and guidance to health and human services clinical programs upon the request of the secretary.

25-43-807. Patient care providers – Wages – Required withholding – Fringe benefits.

(a) The Department of Health may pay wages and required state withholding, federal withholding, required matching, and other fringe benefits for patient care part-time intermittent contractual personnel who must be employed in order to provide services in the home.

(b) These payments will be made from the appropriation for professional fees and services.

25-43-808. Additional compensation – County health unit administrators.

(a) Any employee serving in the capacity of county health unit administrator shall be eligible for up to ten percent (10%) of additional compensation within the grade during the period of time in which the employee occupies the position.

(b) Employees on the highest level of their grade shall be eligible for additional compensation in an amount not to exceed five and one-half percent (5.5%) of their current salary upon assuming responsibility, and this amount shall not be construed as exceeding the line item maximum for the grade for that position.

(c)(1) The Department of Health shall certify to the Chief Fiscal Officer of the State the assignment of duties of each employee in this position, the length of the assignment, and the location and reason for the assignment.

(2) The Chief Fiscal Officer of the State shall approve the request prior to the awarding of additional compensation.

25-43-809. Office of Health Information Technology - Creation - Purpose - Policy.

(a) The Office of Health Information Technology is created within the Department of Health.

(b) The coordination of health information technology activities throughout Arkansas by the Office of Health Information Technology is necessary to obtain the maximum potential value from the investment of federal and state resources to increase the use of health information technology.

(c) The exchange of health information made possible by the State Health Alliance for Records Exchange can improve the quality of health of Arkansas citizens by reducing the potential for medical errors, reducing the incidence of redundant tests and procedures, improving patient safety, and making the delivery of healthcare services more efficient and affordable.

(d) The Office of Health Information Technology and the State Health Alliance for Records Exchange shall respect and safeguard each person's privacy interests in his or her health and medical information.

(e) The Office of Health Information Technology is authorized to transfer the State Health Alliance for Records Exchange to a nonprofit corporation.

25-43-810. Definitions.As used in §§ 25-43-809 - 25-43-812:

(1) "Agency" means any agency, board, commission, public instrumentality, political subdivision, or any of the foregoing entities acting on behalf of the State of Arkansas that store, gather, or generate health information;

(2) "Deidentified" means the same as the meaning under the Health Insurance Portability and Accountability Act of 1996, Public Law No. 104-191;

(3) "Health information" means any information, whether oral or recorded in any form or medium, that:

(A) Is created or received by:

(i) A provider of health care;

(ii) A health plan;

(iii) A public health authority;

(iv) An employer;

(v) A health insurer;

(vi) A school or university; or

(vii) A healthcare clearinghouse; and

(B) Relates to the:

(i) Past, present, or future physical or mental health or condition of an individual;

(ii) Provision of health care to an individual; or

(iii) Past, present, or future payment for the provision of health care to an individual;

(4) "Health information exchange" means the electronic movement of health-related information among organizations according to nationally recognized standards;

(5) "Health information technology" means the application of information processing involving both computer hardware and software and other technology devices that deal with the storage, retrieval, sharing, and use of healthcare information, data, and knowledge for communication and decision-making;

(6) "Identified" means the same as the meaning under the Health Insurance Portability and Accountability Act of 1996, Public Law No. 104-191;

(7) "Nonprofit corporation" means a corporation no part of the income of which is distributable to its members, directors, or officers as under the Arkansas Nonprofit Corporation Act of 1993, § 4-33-101 et seq.; and

(8) "State Health Alliance for Records Exchange" means the entity responsible for the processes and procedures that enable the electronic exchange of interoperable health information in Arkansas.

25-43-811. Duties and responsibilities of the Office of Health Information Technology.

(a) The Office of Health Information Technology shall coordinate the health information technology initiatives of the state with relevant executive branch agencies, including without limitation state boards, commissions, nonprofit corporations, and institutions of higher education.

(b) The Office of Health Information Technology Coordinator shall be selected and serve in a manner prescribed by the Secretary of the Department of Health.

(c) The office shall:

(1) Assure the effective coordination and collaboration of health information technology planning, development, implementation, and financing;

(2) Review all health information technology-related grant applications before submission to funding entities;

(3) Accept, receive, retain, disburse, and administer any state special or general revenue funds or federal funds specifically appropriated for health information technology;

(4) Make contracts and execute all instruments necessary or convenient for carrying out its business;

(5) Recommend to the State Board of Health regarding rules necessary to carry out the policies and objectives of this chapter;

(6) Plan, establish, and operate the State Health Alliance for Records Exchange until the time when the operational responsibility and authority for the State Health Alliance for Records Exchange is transferred to a nonprofit corporation; and

(7)(A) Establish reasonable fees or charges for the use of the State Health Alliance for Records Exchange to fund the operational costs of the State Health Alliance for Records Exchange and the office.

(B) Fees or charges established under subdivision (c)(7)(A) of this section shall be set with the input and guidance of the users of the State Health Alliance for Records Exchange, stakeholders, and other interested parties.

(C) Fees or charges established under subdivision (c)(7)(A) of this section shall not exceed the total cost of operating the State Health Alliance for Records Exchange, not including staffing costs for the State Health Alliance for Records Exchange and the office.

(D) Users of data under this chapter shall be charged in a manner that is proportional to their use of the State Health Alliance for Records Exchange.

(E) Revenue generated by the fees or charges under subdivision (c)(7) of this section shall be deposited into the Health Information Technology Fund, § 19-5-1244.

25-43-812. State Health Alliance for Records Exchange – Duties.

(a) The State Health Alliance For Records Exchange shall:

(1) Serve as the official health information exchange for the State of Arkansas;

(2) Be organized for the purpose of improving the health of Arkansans by:

(A) Promoting efficient and effective communication among multiple healthcare providers, including without limitation hospitals, physicians, payers, employers, pharmacies, laboratories, and other healthcare entities;

(B) Creating efficiencies in healthcare costs by eliminating redundancy in data capture and storage and reducing administrative, billing, and data collection costs;

(C) Creating the ability to monitor community health status; and

(D) Providing reliable information to healthcare consumers and purchasers regarding the quality and cost-effectiveness of health care, health plans, and healthcare providers;

(3)(A) Until a nonprofit corporation operates the State Health Alliance for Records Exchange, the State Health Alliance for Records Exchange shall be established and operated by the Office of Health Information

Technology with the advice of the Health Information Exchange Council, consisting of the following members appointed by the Secretary of the Department of Health:

- (i) The Office of Health Information Technology Coordinator;
- (ii) A representative of the Department of Finance and Administration;
- (iii) A representative of the Department of Human Services;
- (iv) A representative of the Division of Information Systems;
- (v) A representative of the health insurance industry;
- (vi) A representative of the Arkansas Foundation for Medical Care, Inc.;
- (vii) A representative of the Arkansas Hospital Association, Inc.;
- (viii) A representative of the Arkansas Medical Society, Inc.;
- (ix) A representative of the Arkansas Minority Health Commission;
- (x) A representative of the Arkansas Nurses Association;
- (xi) A representative of the Division of Science and Technology of the Arkansas Economic Development Commission;
- (xii) A representative of the Arkansas Pharmacists Association;
- (xiii) A representative of the business community;
- (xiv) A representative of the Community Health Centers of Arkansas, Inc.;
- (xv) A representative of the University of Arkansas for Medical Sciences;
- (xvi) A representative of the Arkansas Health Care Association; and
- (xvii) Two (2) healthcare consumers.

(b) The Chair of the Health Information Exchange Council shall be

elected by the members of the council.

(c) All members will serve until the operational responsibility and authority for the State Health Alliance for Records Exchange is transferred to a nonprofit corporation.

(d)(1) The State Health Alliance for Records Exchange is not a healthcare provider and is not subject to claims under § 16-114-201 et seq.

(2) A person who participates in or subscribes to the services or information provided by the State Health Alliance for Records Exchange shall not be liable in any action for damages or cost of any nature that results solely from the person's use or failure to use the State Health Alliance for Records Exchange information or data that was imputed or retrieved under the Health Insurance Portability and Accountability Act of 1996, as it existed on January 1, 2011, and regulations adopted under the act, state confidentiality laws and the rules of the State Health Alliance for Records Exchange as approved by the Office of Health Information Technology or the governing body of the nonprofit corporation.

(3) A person shall not be subject to antitrust or unfair competition liability based on membership or participation in the State Health Alliance for Records Exchange, which provides an essential governmental function for the public health and safety and enjoys state sovereign immunity.

(e) A person who provides information and data to the State Health Alliance for Records Exchange retains a property right in the information or data but grants to the other participants or subscribers a nonexclusive license to retrieve and use that information or data under the Health Insurance Portability and Accountability Act of 1996, as it existed on January 1, 2011, and any amendments and regulations adopted under the act, state confidentiality laws, and the rules of the State Health Alliance for Records Exchange.

(f) All processes or software developed, designed, or purchased by the State Health Alliance for Records Exchange shall remain the property of the State Health Alliance for Records Exchange subject to use by participants or subscribers under the rules of the State Health Alliance for Records Exchange.

(g) Patient-specific protected health information shall be disclosed only in accordance with the patient's authorization or in compliance with

state confidentiality laws and the Health Insurance Portability and Accountability Act of 1996, as it existed on January 1, 2011, and regulations under the act.

(h) Executive branch agencies, including state boards, commissions, nonprofit corporations, and institutions of higher education, that implement, acquire, or upgrade health information technology systems shall use health information technology systems and products that meet minimum standards adopted by the State Health Alliance for Records Exchange.

(i) All identified or deidentified health information contained in, stored in, submitted to, transferred by, or released from the State Health Alliance for Records Exchange is not disclosable under applicable state or federal law except to:

(1) A healthcare provider; or

(2) Other authorized person or entity as described by policies and rules promulgated by the State Board of Health or the State Alliance for Records Exchange.

(j)(1) Upon the transfer to a nonprofit corporation, the State Health Alliance for Records Exchange shall be governed under the bylaws and incorporation documents of the corporation.

(2) The bylaws and incorporation documents of the corporation shall further only the objectives and policies set forth in §§ 25-43-809 - 25-43-812.

SECTION 2. Arkansas Code § 4-97-103(2), concerning the definition of "authorized person" under the Arkansas Retail Pet Store Consumer Protection Act of 1991, is amended to read as follows:

(2) "Authorized person" means the ~~Director~~ Secretary of the Department of Health or his or her delegate, or any law enforcement officer;

SECTION 3. Arkansas Code § 5-64-101(3)(B)(i), concerning the definition of "anabolic steroid" under the Uniform Controlled Substances Act, is amended to read as follows:

(B)(i) "Anabolic steroid" does not include an anabolic steroid that is expressly intended for administration through an implant to cattle or another nonhuman species and that has been approved by the ~~Director~~ Secretary of the Department of Health for such administration.

SECTION 4. Arkansas Code § 5-64-201 is amended to read as follows:  
 5-64-201. ~~Director's~~ Secretary's duties.

(a)(1)(A)(i) The ~~Director~~ Secretary of the Department of Health shall administer this chapter and may add a substance to or delete or reschedule any substance enumerated in a schedule under the procedures of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(ii) The ~~director~~ secretary may promulgate without action or approval of the State Board of Health an emergency rule under the procedures of the Arkansas Administrative Procedure Act, § 25-15-201 et seq., that adds a substance to or deletes a substance from a schedule or reschedules a substance.

(iii) If the ~~director~~ secretary adds, deletes, or reschedules a substance through an emergency rule under the procedures of the Arkansas Administrative Procedure Act, § 25-15-201 et seq., the emergency rule may be effective for no longer than one hundred eighty (180) days.

(B) However, the ~~director~~ secretary shall not delete any substance from a schedule in effect on July 20, 1979, without prior approval by the Legislative Council.

(2) In making a determination regarding a substance, the ~~director~~ secretary shall consider the following:

- (A) The actual or relative potential for abuse;
- (B) The scientific evidence of its pharmacological effect, if known;
- (C) The state of current scientific knowledge regarding the substance;
- (D) The history and current pattern of abuse;
- (E) The scope, duration, and significance of abuse;
- (F) The risk to public health;
- (G) The potential of the substance to produce psychic or physiological dependence liability; and
- (H) Whether the substance is an immediate precursor of a substance already controlled under this subchapter.

(b) After considering the factors enumerated in subsection (a) of this section, the ~~director~~ secretary shall make findings with respect to the factors and issue a rule controlling the substance if he or she finds the

substance has a potential for abuse.

(c) If the ~~director~~ secretary designates a substance as an immediate precursor, a substance that is a precursor of the controlled precursor is not subject to control solely because it is a precursor of the controlled precursor.

(d)(1) If any substance is designated as a controlled substance under federal law and notice of the designation is given to the ~~director~~ secretary, the ~~director~~ secretary shall similarly control the substance under this chapter after the expiration of thirty (30) days from publication in the Federal Register of a final order designating a substance as a controlled substance unless within that thirty-day period the ~~director~~ secretary objects to inclusion.

(2)(A) If the ~~director~~ secretary objects to inclusion, the ~~director~~ secretary shall publish the reasons for objection and afford any interested party an opportunity to be heard.

(B) At the conclusion of the hearing, the ~~director~~ secretary shall publish his or her decision.

(C) Any person aggrieved by a decision of the ~~director~~ secretary is entitled to judicial review in the Pulaski County Circuit Court.

(3) Upon publication of objection to inclusion under this chapter by the ~~director~~ secretary, control under this chapter is stayed until the ~~director~~ secretary publishes his or her decision or, if judicial review is sought, the inclusion is stayed until adjudication of the judicial review.

(4) If notice has been given to the ~~director~~ secretary that the United States Food and Drug Administration has designated, rescheduled, or descheduled a marijuana-derived substance under federal law and approved for marketing the marijuana-derived substance as a prescription medication, the ~~director~~ secretary shall consider the designation, rescheduling, or descheduling of the marijuana-derived substance under this chapter.

(e) Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco.

(f) The ~~director~~ secretary shall schedule gamma-hydroxybutyrate and its known precursors and analogs in a manner consistent with the procedures outlined in this section.

SECTION 5. Arkansas Code § 5-64-203 is amended to read as follows:

5-64-203. Criteria for Schedule I.

The ~~Director~~ Secretary of the Department of Health shall place a substance in Schedule I if he or she finds that the substance has:

- (1) High potential for abuse; and
- (2) No accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

SECTION 6. Arkansas Code § 5-64-204 is amended to read as follows:

5-64-204. Substances in Schedule I.

(a) In addition to any substance placed in Schedule I by the ~~Director~~ Secretary of the Department of Health under § 5-64-203, any material, compound, mixture, or preparation, whether produced directly or indirectly from a substance of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, that contains any quantity of the following substances, or that contains any of the following substances' analogs, salts, isomers, and salts of isomers when the existence of the analogs, salts, isomers, and salts of isomers is possible within the specific chemical designation, with the following chemical structure is included in Schedule I:

- (1) 4-Methylmethcathinone (Mephedrone);
- (2) Methylenedioxypropylone (MDPV);
- (3) 3,4-Methylenedioxy-N-methylcathinone (Methylone);
- (4) 4-Methoxymethcathinone;
- (5) 3-Fluoromethcathinone;
- (6) 4-Fluoromethcathinone; or
- (7) A compound, unless listed in another schedule or a legend drug, that is structurally derived from 2-Amino-1-phenyl-1-propanone by modification or by substitution:

(A) In the phenyl ring to any extent with alkyl, alkoxy, alkylenedioxy, haloalkyl or halide substituents, whether or not further substituted in the phenyl ring by one (1) or more other univalent substituents;

(B) At the 3-position with an alkyl substituent; or

(C) At the nitrogen atom with alkyl or dialkyl groups, or by inclusion of the nitrogen atom in a cyclic structure.

(b) The ~~Director~~ Secretary of the Department of Health shall not

delete a controlled substance listed in this section from Schedule I.

SECTION 7. Arkansas Code § 5-64-205 is amended to read as follows:  
5-64-205. Criteria for Schedule II.

The ~~Director~~ Secretary of the Department of Health shall place a substance in Schedule II if he or she finds that:

- (1) The substance has high potential for abuse;
- (2) The substance has currently accepted medical use in treatment in the United States or currently accepted medical use with severe restrictions; and
- (3) The abuse of the substance may lead to severe psychic or physical dependence.

SECTION 8. Arkansas Code § 5-64-207 is amended to read as follows:  
5-64-207. Criteria for Schedule III.

The ~~Director~~ Secretary of the Department of Health shall place a substance in Schedule III if he or she finds that:

- (1) The substance has a potential for abuse less than the substances listed in Schedules I and II;
- (2) The substance has currently accepted medical use in treatment in the United States; and
- (3) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

SECTION 9. Arkansas Code § 5-64-209 is amended to read as follows:  
5-64-209. Criteria for Schedule IV.

The ~~Director~~ Secretary of the Department of Health shall place a substance in Schedule IV if he or she finds that:

- (1) The substance has a low potential for abuse relative to substances in Schedule III;
- (2) The substance has currently accepted medical use in treatment in the United States; and
- (3) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

SECTION 10. Arkansas Code § 5-64-211 is amended to read as follows:  
5-64-211. Criteria for Schedule V.

The ~~Director~~ Secretary of the Department of Health shall place a substance in Schedule V if he or she finds that:

- (1) The substance has low potential for abuse relative to the controlled substances listed in Schedule IV;
- (2) The substance has currently accepted medical use in treatment in the United States; and
- (3) The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

SECTION 11. Arkansas Code § 5-64-212(a), concerning substances in Schedule V under the Uniform Controlled Substances Act, is amended to read as follows:

(a) An ephedrine combination product, pseudoephedrine, and phenylpropanolamine, as defined in § 5-64-1105, are designated Schedule V controlled substances in addition to the drugs and other substances listed in Schedule V of the List of Controlled Substances for the State of Arkansas promulgated by the ~~Director~~ Secretary of the Department of Health.

SECTION 12. Arkansas Code § 5-64-212(c), concerning substances in Schedule V under the Uniform Controlled Substances Act, is amended to read as follows:

(c) The ~~director~~ secretary may reschedule a product described in subdivision (b)(1) or subdivision (b)(2) of this section if it is determined that the conversion of the active ingredient in the product into methamphetamine or its salts or precursors is feasible.

SECTION 13. Arkansas Code § 5-64-214 is amended to read as follows:  
5-64-214. Criteria for Schedule VI.

The ~~Director~~ Secretary of the Department of Health shall place a substance in Schedule VI if he or she finds that:

- (1) The substance is not currently accepted for medical use in treatment in the United States;
- (2) There is lack of accepted safety for use of the drug or

other substance even under direct medical supervision;

(3) The substance has relatively high psychological or physiological dependence liability, or both; and

(4) Use of the substance presents a definite risk to public health.

SECTION 14. Arkansas Code § 5-64-215(a), the introductory language concerning the substances in Schedule VI under the Uniform Controlled Substances Act, is amended to read as follows:

(a) In addition to any substance placed in Schedule VI by the ~~Director~~ Secretary of the Department of Health under § 5-64-214, any material, compound, mixture, or preparation, whether produced directly or indirectly from a substance of vegetable origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, that contains any quantity of the following substances, or that contains any of their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation, is included in Schedule VI:

SECTION 15. Arkansas Code § 5-64-215(b), concerning the substances in Schedule VI under the Uniform Controlled Substances Act, is amended to read as follows:

(b) However, the ~~director~~ secretary shall not delete a controlled substance listed in this section from Schedule VI.

SECTION 16. Arkansas Code § 5-64-216 is amended to read as follows:

5-64-216. Schedule revisions.

The ~~Director~~ Secretary of the Department of Health shall revise and republish the schedules annually.

SECTION 17. Arkansas Code § 5-64-414(c), concerning the controlled substance analog under the Uniform Controlled Substances Act, is amended to read as follows:

(c) Within ten (10) days after the initiation of prosecution with respect to a controlled substance analog by indictment or information, the prosecuting attorney shall notify the ~~Director~~ Secretary of the Department of

Health of information relevant to emergency scheduling as provided for in § 5-64-201(d).

SECTION 18. Arkansas Code § 5-64-415(i)(5), concerning drug precursors under the Uniform Controlled Substances Act, is amended to read as follows:

(5) The Department of Health may authorize a manufacturer, wholesaler, retailer, or other person to submit a comprehensive monthly report instead of the report required by subdivision (i)(2)(A) of this section if the ~~Director~~ Secretary of the Department of Health determines that:

(A) There is a pattern of regular supply and purchase of the drug precursor between the furnisher and the recipient; or

(B) The recipient has established a record of utilization of the drug precursor solely for a lawful purpose.

SECTION 19. Arkansas Code § 5-64-501 is amended to read as follows:

5-64-501. Powers of officials generally.

Any law enforcement officer, any person authorized to enforce this chapter, or any employee of the Department of Health designated by the ~~Director~~ Secretary of the Department of Health to conduct an examination, investigation, or inspection under this chapter relating to a controlled substance or to a counterfeit drug may:

(1) Carry a firearm in the performance of his or her official duties;

(2) Execute and serve a search warrant, arrest warrant, administrative inspection warrant, subpoena, or summons issued under the authority of this state;

(3) Make an arrest without warrant for any offense under this chapter committed in his or her presence, or if he or she has probable cause to believe that the person to be arrested has committed a violation of this chapter that may constitute a felony;

(4) Make a seizure of property pursuant to this chapter; or

(5) Perform any other law enforcement duty as the ~~director~~ secretary designates.

SECTION 20. Arkansas Code § 5-64-504(a)(1), concerning

intergovernmental cooperation and the identities of patients and research subjects, is amended to read as follows:

(a)(1) The ~~Director~~ Secretary of the Department of Health shall cooperate with federal and any other state agency in discharging the agency's responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances.

SECTION 21. Arkansas Code § 5-64-507(a), concerning the conclusiveness of findings by the Department of Health, is amended to read as follows:

(a) Any final determination, finding, or conclusion of the ~~Director~~ Secretary of the Department of Health under this chapter is a final and conclusive decision of the matter involved.

SECTION 22. Arkansas Code § 5-64-508(d)(1), concerning educational and research programs designed to prevent and deter misuse and abuse of controlled substances, is amended to read as follows:

(d)(1) The ~~Director~~ Secretary of the Department of Health may authorize a person engaged in research on the use and effects of a controlled substance to withhold the names and other identifying characteristics of individuals who are the subjects of the research.

SECTION 23. Arkansas Code § 5-64-508(e)(1), concerning educational and research programs designed to prevent and deter misuse and abuse of controlled substances, is amended to read as follows:

(e)(1) The ~~director~~ secretary may authorize the possession and distribution of a controlled substance by a person engaged in research.

SECTION 24. Arkansas Code § 5-64-703 is amended to read as follows:

5-64-703. Authority to make inspections.

In carrying out the functions under this chapter, the ~~Director~~ Secretary of the Department of Health or his or her duly authorized agent may enter a controlled premises and conduct an administrative inspection of the controlled premises.

SECTION 25. Arkansas Code § 5-64-1003 is amended to read as follows:

5-64-1003. Inspection of records.

A record maintained pursuant to this subchapter is subject to inspection by any law enforcement officer of this state or any employee of the Department of Health designated by the ~~Director~~ Secretary of the Department of Health to conduct an examination, investigation, or inspection under this chapter relating to a controlled substance, counterfeit drug, or precursor chemical.

SECTION 26. Arkansas Code § 6-18-709(a)(2), concerning the Public School Health Services Advisory Committee, is amended to read as follows:

- (2) The ~~Director~~ Secretary of the Department of Health shall appoint:
- (A) One (1) member to represent the Department of Health;
  - (B) One (1) member to represent the Arkansas State Board of Nursing;
  - (C) One (1) member to represent the Arkansas Center for Health Improvement;
  - (D) One (1) member to represent the Child and Adolescent Health Section of the Department of Health; and
  - (E) One (1) member to represent the Office of Minority Health and Health Disparities of the Department of Health.

SECTION 27. Arkansas Code § 6-81-1202(a)(4), concerning the Graduate Nurse Educator Loan and Scholarship Board, is amended to read as follows:

- (4) The ~~Director~~ Secretary of the Department of Health or the ~~director's~~ secretary's designee; and

SECTION 28. Arkansas Code § 8-4-104(b)(2)(A), concerning the members of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

- (A) The ~~Director~~ Secretary of the Department of Health or his or her designee; and

SECTION 29. Arkansas Code § 8-5-702(d), concerning remedies for chronic violations by sewage systems, is amended to read as follows:

- (d)(1) If the circuit court determines that the permitted or registered entity cannot equitably satisfy the provisions of this subchapter

or that no feasible alternatives exist, the circuit court shall so certify that determination to the Arkansas Department of Environmental Quality, which shall terminate the entity's permit, and the circuit court shall request a review by the ~~Director~~ Secretary of the Department of Health of the public health impact of an order compelling the entity supplying potable water to the common sewage system to cut off the flow of potable water.

(2)(A) If the ~~Director of the Department of Health~~ secretary determines that a greater health hazard exists from the malfunctioning common sewage system than from the discontinuance of potable water service, then the ~~Director of the Department of Health~~ secretary shall so certify this determination to the circuit court.

(B) The circuit court shall then issue an order compelling the receiver to notify all users of such common sewage system, including landowners and tenants, of the ~~Director of the Department of Health's~~ secretary's determination.

(C) Upon evidence of reasonable notice, the circuit court shall then issue the order to cut off the flow of potable water.

SECTION 30. Arkansas Code § 9-28-301(e), concerning inspections, timing, reports, and audits of facilities operated by or under contract with the Division of Youth Services of the Department of Human Services, is amended to read as follows:

(e)(1) The ~~Director~~ Secretary of the Department of Health shall present a list of findings of the random health inspections to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth within one (1) month after completing the random health inspections.

(2)(A) In the event the General Assembly is in session, the ~~Director of the Department of Health~~ secretary shall provide the report to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Chair of the Senate Committee on Children and Youth.

(B) The complete report, including, but not limited to, statistics shall be made available to the public.

SECTION 31. Arkansas Code Title 11, Chapter 5, Subchapter 2, is repealed.

~~Subchapter 2 — Industrial Health Service Act~~

~~11-5-201. Title.~~

~~This subchapter shall be cited as the “Industrial Health Service Act of 1947”.~~

~~11-5-202. Exception.~~

~~Nothing in this subchapter shall be construed as applying to the coal mining industry.~~

~~11-5-203. Penalty.~~

~~(a)(1) Any person, firm, or corporation who shall neglect or refuse to comply with the provisions of this subchapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100) for each offense.~~

~~(2) Each day any employer neglects or refuses to comply with the provisions of this subchapter shall constitute a separate offense.~~

~~(b) It shall be the duty of the prosecuting attorney to prosecute violations of this subchapter.~~

~~11-5-204. Division of Industrial Hygiene — Creation — Duties.~~

~~(a) The Division of Industrial Hygiene is established as one of the offices over which the State Board of Health maintains supervision.~~

~~(b) The division shall investigate places of employment and study those conditions which might be responsible for ill health of the industrial worker.~~

~~11-5-205. State Board of Health — Rules and regulations.~~

~~It shall be the duty of the State Board of Health to adopt rules and regulations pertaining to the control of industrial health hazards, including and concerning the maximum allowable limits of materials, ventilation requirements, water supplies, excreta disposal facilities, washing and shower facilities, and other matters pertaining to the maintenance of the health of the worker.~~

~~11-5-206. Director of Department of Health—Access to certain buildings.~~

~~The Director of the Department of Health or his or her duly authorized deputy shall have access to any firm, corporation, industry, or manufacturing plant for the proper discharge of his or her official duties.~~

~~11-5-207. Use of injurious material, process, or condition prohibited.~~

~~(a) It shall be a violation of this subchapter for any employer to use or permit to be used in the conduct of his or her business, manufacturing establishment, or other place of employment any material, process, or condition known to have an adverse effect on health.~~

~~(b) However, that material, process, or condition may be used when it is operated, handled, or used in such a manner that injury to the health of the worker will not occur.~~

~~(c) It shall be the duty of the Division of Industrial Hygiene to evaluate and determine whether the material, process, or condition is being operated, handled, or used in such a manner that injury to the health of the worker will not occur.~~

~~11-5-208. Use of information from studies or investigations.~~

~~(a) Information obtained from studies or upon investigations made in accordance with the provisions of this subchapter shall not be admissible as evidence in any action at law to recover damages for personal injury or in any action under the Workers' Compensation Law, § 11-9-101 et seq.~~

~~(b) By mutual agreement between the Division of Industrial Hygiene and those charged with the administration of the Workers' Compensation Law, § 11-9-101 et seq., studies at the request of the latter may be instituted in industries, and the results of these studies may be reported to the administrators.~~

SECTION 32. Arkansas Code § 14-15-307(a)(2)(G), concerning the Coroner's Advisory Task Force creation, powers, and duties, is amended to read as follows:

(G) The ~~Director~~ Secretary of the Department of Health or his or her designee; and

SECTION 33. Arkansas Code § 14-229-101(b)(8), concerning the Individual Sewage Disposal Systems Advisory Committee, is amended to read as follows:

(8) Three (3) members involved with the individual sewage disposal systems program of the Department of Health, to be appointed by the ~~Director~~ Secretary of the Department of Health;

SECTION 34. Arkansas Code § 14-229-101(e)(3), concerning the Individual Sewage Disposal Systems Advisory Committee, is amended to read as follows:

(3) The advisory committee shall meet upon call by the chair, at the request of any five (5) members of the committee stated in writing, at the request of the Director of the Division of Environmental Health Protection of the Department of Health, or upon call by the ~~Director~~ Secretary of the Department of Health.

SECTION 35. Arkansas Code § 14-229-102(1), concerning the Individual Sewage Disposal Systems Advisory Committee, is amended to read as follows:

(1) To advise with and make recommendations to the ~~Director~~ Secretary of the Department of Health and the Director of the Division of Environmental Health Protection of the Department of Health, concerning the utilization and application of alternate and experimental individual sewage disposal systems;

SECTION 36. Arkansas Code § 14-262-119 is amended to read as follows:  
14-262-119. County Organization of State Aid Fund.

(a)(1) In addition to any and all other appropriations made for the State Board of Health, there may be made an appropriation which shall be known as the County Organization of State Aid Fund, which shall be expended exclusively for this purpose.

(2) The fund shall be available to any county whenever the county shall make an appropriation of an adequate sum of money, to be approved by the ~~Director~~ Secretary of the Department of Health, necessary to do effective work.

(3) All counties which shall be found organized for this work on July 1 of each year shall receive priority in the allocation of funds.

(b)(1) Before any county shall receive state aid under the provisions of this section, a cooperative budget shall be prepared by the county judge, the ~~Director~~ Secretary of the Department of Health, and any other agency which may be contributing and shall be signed by each.

(2) The ~~Director~~ Secretary of the Department of Health shall draw vouchers against the State Aid Fund, as provided in the cooperative budget, in the usual manner.

SECTION 37. Arkansas Code § 17-27-406(e), concerning the powers and duties of the State Board of Examiners of Alcoholism and Drug Abuse Counselors, is amended to read as follows:

(e) The ~~board~~ Department of Health may employ any persons it deems necessary to carry on the work of the board and the department shall define their duties and fix their compensation within the limits prescribed by law.

SECTION 38. Arkansas Code § 17-43-203(d), concerning the duties and powers of the Arkansas State Board of Sanitarians, is repealed.

~~(d) The board may employ and fix the compensation of assistants, clerks, stenographers, typists, and other employees to serve at the pleasure of the board, and acquire office space, furniture, supplies, equipment, and other proper conveniences reasonably necessary for the performance of their duties under this chapter.~~

SECTION 39. Arkansas Code § 17-43-204(b), concerning the disposition of funds by the Arkansas State Board of Sanitarians, is amended to read as follows:

(b) The board shall make a report annually to the ~~Governor~~ Secretary of the Department of Health, showing all receipts and disbursements of moneys and a summary of all business transacted during the year.

SECTION 40. Arkansas Code § 17-43-207(a)(1), concerning the transfer of the Arkansas State Board of Sanitarians, is amended to read as follows:

(a)(1) Effective July 1, 2013, the Arkansas State Board of Sanitarians is transferred to the Department of Health and shall be administered by the ~~Director~~ Secretary of the Department of Health.

SECTION 41. Arkansas Code § 17-51-104(g), concerning the creation of the Drinking Water Advisory and Operator Licensing Committee, is amended to read as follows:

(g) The member of the committee who is a member of the staff of the Engineering Section of the Department of Health shall serve at the pleasure of the ~~Director~~ Secretary of the Department of Health.

SECTION 42. Arkansas Code § 17-80-101(c), concerning the filing and compilation of licensing information of the Arkansas State Board of Chiropractic Examiners, is amended to read as follows:

(c) The ~~Director~~ Secretary of the Department of Health shall report the deaths of all persons licensed by the boards named in subsection (a) of this section to the Secretary of State within a reasonable time after the information has been received in his or her office. The Secretary of State shall thereupon note after the name of the decedent the fact of his or her death and the date thereof.

SECTION 43. Arkansas Code § 17-81-204(a), concerning the organization and meetings of the Arkansas State Board of Chiropractic Examiners, is amended to read as follows:

(a) The ~~Arkansas State Board of Chiropractic Examiners~~ Department of Health shall maintain and operate an office for the administration of ~~its~~ the business of the Arkansas State Board of Chiropractic Examiners.

SECTION 44. Arkansas Code § 17-81-205 is amended to read as follows:  
17-81-205. Minutes – Records.

(a) The ~~Executive~~ Director of the Arkansas State Board of Chiropractic Examiners shall keep a record of the minutes of the meetings of the board and a record of the names of all persons making application for license under the provisions of this chapter together with a record of the action of the board thereon.

(b) The ~~executive~~ director shall also keep a roll of the names of all licensed and deceased chiropractors who have been licensed to practice in the State of Arkansas.

(c) The record shall at all reasonable times be open for public inspection.

SECTION 45. Arkansas Code § 17-81-206(a)(1), concerning the duties of the Arkansas State Board of Chiropractic Examiners, is amended to read as follows:

(a)(1) The Arkansas State Board of Chiropractic Examiners is empowered to incur whatever expenses ~~it~~ the board may deem necessary or expedient in performing its functions. ~~It may employ whatever assistants it may deem necessary or expedient therefor and fix their compensation.~~

SECTION 46. Arkansas Code § 17-81-206(b)(8), concerning the powers and duties of the Arkansas State Board of Chiropractic Examiners, is amended to read as follows:

(8) Employ ~~such persons~~ a Director of the Arkansas State Board of Chiropractic Examiners, upon the approval of the Secretary of the Department of Health, as may be necessary to carry out the work of the board, who shall have their duties and compensation prescribed by the board within appropriations for that purpose;

SECTION 47. Arkansas Code § 17-81-207 is amended to read as follows:  
17-81-207. ~~Executive director~~ Director.

(a) Pursuant to its authority set forth in § 17-81-206(b)(8), the Arkansas State Board of Chiropractic Examiners may employ ~~an executive director~~ a Director of the Arkansas State Board of Chiropractic Examiners ~~to maintain and operate its office pursuant to its directions.~~

(b)(1) The ~~Executive Director of the Arkansas State Board of Chiropractic Examiners~~ director in consultation with and review of the Treasurer of the Arkansas State Board of Chiropractic Examiners shall collect all fees and fines on behalf of the ~~board~~ Arkansas State Board of Chiropractic Examiners and submit all payment requests on behalf of the board for its state appropriations.

(2) The ~~executive~~ director shall give in writing at the annual meeting of the board a fully itemized report of his or her receipts and disbursements for the preceding year showing the amount of money on hand and shall submit reports for inspection at other times as may be requested by the board or by any of its members.

(3) Copies of the annual reports, actions of the board, and

number licensed for the year, certified by the Secretary of the Arkansas State Board of Chiropractic Examiners of the board, shall be submitted by the ~~executive~~ director to the various chiropractic professional organizations in Arkansas and the Secretary of the Department of Health.

SECTION 48. Arkansas Code § 17-81-208(a), concerning the disposition of the funds of the Arkansas State Board of Chiropractic Examiners, is amended to read as follows:

(a) All fees and fines authorized by this chapter are the property of the Arkansas State Board of Chiropractic Examiners and shall be paid to the office of the ~~Executive~~ Director of the Arkansas State Board of Chiropractic Examiners who shall collect and dispose of such funds on behalf of the board as provided in this chapter. Any surplus in the treasury of the board at the end of the fiscal year shall remain in the treasury and may be expended in succeeding years for the purposes herein set out.

SECTION 49. Arkansas Code § 17-81-304(a)(1)(A), concerning the application and fee for a license to practice chiropractic in the State of Arkansas, is amended to read as follows:

(a)(1)(A) Applications for a license to practice chiropractic in the State of Arkansas shall be made to the ~~Executive~~ Director of the Arkansas State Board of Chiropractic Examiners in writing on forms furnished by the Arkansas State Board of Chiropractic Examiners.

SECTION 50. Arkansas Code § 17-82-209 is amended to read as follows:

17-82-209. Expenses – Compensation of members and employees.

(a) The Arkansas State Board of Dental Examiners is empowered to incur whatever expenses ~~it~~ the board may deem necessary or expedient in performing its function.

~~(b) It may employ whatever assistants it may deem necessary or expedient therefor and fix their compensation.~~

~~(c)~~ Each member of the board may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

~~(d)~~(c) The board shall fix the salary of the Secretary-treasurer of the Arkansas State Board of Dental Examiners.

~~(e)~~(d) All of the disbursements provided for in this section shall be

made out of the fees and fines collected by the board.

SECTION 51. Arkansas Code § 17-82-210(b), concerning annual reports of the Arkansas State Board of Dental Examiners, is amended to read as follows:

(b) The report shall be filed with the ~~Governor~~ Secretary of the Department of Health not later than September 1 of each year, and a copy thereof, certified by the President and Secretary-treasurer of the Arkansas State Board of Dental Examiners, shall be filed at the same time with the Secretary of the Arkansas State Dental Association.

SECTION 52. Arkansas Code § 17-83-202 is amended to read as follows:  
17-83-202. Organization and meetings — ~~Personnel~~.

(a)(1) At least two (2) regular meetings of the Arkansas Dietetics Licensing Board shall be held each calendar year, and at the first regular meeting every two (2) years, the board shall elect a chair and vice chair. Other regular meetings may be held at such time as the rules of the board may provide.

(2) Special called meetings may be held at the discretion of the Chair of the Arkansas Dietetics Licensing Board or at the written request of any three (3) members of the board.

(3) Reasonable notice of all meetings shall be given in the manner prescribed by the laws of this state.

(4) A quorum of the board shall consist of four (4) members.

(5) A secretary of the board shall be ~~elected by the board and shall hold office at the pleasure of the board~~ employed by the Department of Health.

(6) The board shall adopt a seal, which must be affixed to all certificates issued by the board.

(b) ~~The board shall employ necessary~~ Department of Health shall employ personnel for the performance of ~~its~~ the board's functions and ~~fix the compensation thereof within the limits of funds available to the board~~ the board may disburse funds to the Department of Health to employ necessary personnel for the performance of the board's functions.

SECTION 53. Arkansas Code § 17-84-202(c), concerning the organization and proceedings of the Arkansas Board of Hearing Instrument Dispensers, is

amended to read as follows:

(c) The board shall keep a record of all of its proceedings and transactions and shall annually make a report to the ~~Governor~~ Secretary of the Department of Health showing all receipts and disbursements and a summary of all business transacted during the year.

SECTION 54. Arkansas Code § 17-84-203(7), concerning the powers and duties of the Arkansas Board of Hearing Instrument Dispensers, is repealed.

~~(7) To employ and retain the services of attorneys, accountants, and other necessary assistants in carrying out the provisions of this chapter;~~

SECTION 55. Arkansas Code § 17-84-203(10), concerning the powers and duties of the Arkansas Board of Hearing Instrument Dispensers, is amended to read as follows:

(10)(A) To ~~employ~~ request the use of Department of Health investigators, issue subpoenas, and perform all activities necessary to effectively investigate claims and pursue disciplinary action against licensees.

(B) The board may inspect or may authorize the Department of Health investigators to inspect an established place of business during regular hours of operation; and

SECTION 56. Arkansas Code § 17-87-202(c) and (d), concerning the organization and proceedings of the Arkansas State Board of Nursing, are amended to read as follows:

(c) The ~~board~~ Department of Health shall maintain an office for the administration of ~~its~~ the board's business.

(d) The board shall annually elect a president, vice president, secretary, and treasurer from among its members. The president shall be a registered nurse.

~~(d)~~(e) The ~~Executive~~ Director of the Arkansas State Board of Nursing shall be a registered nurse and meet the qualifications required by the board.

SECTION 57. Arkansas Code § 17-87-203(4) and (5), concerning the

powers and duties of the Arkansas State Board of Nursing, are amended to read as follows:

(4) Make an annual report to the ~~Governor~~ Secretary of the Department of Health;

(5) Employ ~~personnel~~ a Director of the Arkansas State Board of Nursing, with the approval of the Secretary of the Department of Health, if the board determines it necessary for carrying out its functions;

SECTION 58. Arkansas Code § 17-89-202(c), concerning meetings and officers of the Arkansas Board of Dispensing Opticians, is amended to read as follows:

(c)(1) The Secretary-treasurer of the Arkansas Board of Dispensing Opticians shall perform those administrative duties assigned him or her by the board and shall execute a bond for the state in a sum to be fixed by the board conditioned on the faithful performance of the duties of his or her office.

(2) The board shall outline the duties of the secretary-treasurer and fix his or her compensation, upon approval by the Secretary of the Department of Health, per diem, mileage, and other expense moneys in accordance with applicable Arkansas laws and regulations.

SECTION 59. Arkansas Code § 17-90-202(c), concerning the appointment of members of the State Board of Optometry, is amended to read as follows:

(c) The Secretary-treasurer of the State Board of Optometry shall receive such additional salary as may be fixed by the board, and approved by the Secretary of the Department of Health.

SECTION 60. Arkansas Code § 17-90-203(c), concerning meetings, officers, and records of the State Board of Optometry, is amended to read as follows:

(c) The board shall make a report annually to the ~~Governor~~ Secretary of the Department of Health showing all receipts and disbursements of moneys and a summary of all business transacted during the year.

SECTION 61. Arkansas Code § 17-90-204(4), concerning the powers and duties of the State Board of Optometry, is repealed.

~~(4) To employ or retain the services of attorneys and other necessary assistants in carrying out the provisions of this chapter;~~

SECTION 62. Arkansas Code § 17-90-205(b)(2), concerning the disposition of funds and the Secretary-treasurer of the State Board of Optometry's bond, is amended to read as follows:

(2) The secretary-treasurer shall keep a true and faithful account of all moneys received and all moneys expended and shall file annually with the ~~Governor~~ Secretary of the Department of Health a report of all financial transactions duly audited by an independent accountant.

SECTION 63. Arkansas Code § 17-92-205(b), concerning the rules and regulations of the Arkansas State Board of Pharmacy, is amended to read as follows:

(b) It shall be the duty of the board, through officials appointed by ~~it or under its supervision~~ the Department of Health for that purpose, to enforce all the provisions of this chapter.

SECTION 64. Arkansas Code § 17-92-205(c)(1), concerning the rules and regulations of the Arkansas State Board of Pharmacy, is amended to read as follows:

(c)(1) Upon written authorization by the board, the ~~board's~~ Department of Health's inspectors or other designated agents shall have authority to conduct oversight activities authorized by law, including, but not limited to, audits, investigations, inspections, licensure, or disciplinary actions, civil, administrative, or criminal proceedings or actions, or other activities necessary for appropriate oversight of the regulated activities and may enter any store, business establishment, including any hospital pharmacy, or any other facility holding a license, permit, or other authority issued by the board where drugs, medicines, chemicals, pharmaceuticals, poisons, home medical equipment, or services or other objects, services, or activities regulated by the board are manufactured, sold, dispensed, or conducted to enforce this chapter, the Uniform Controlled Substances Act, §§ 5-64-101 – 5-64-510, § 5-64-1001 et seq., § 5-64-1101 et seq., the Food, Drug, and Cosmetic Act, § 20-56-201 et seq., or § 20-64-501 et seq.

SECTION 65. Arkansas Code § 17-92-205(c)(2)(A), concerning the rules and regulations of the Arkansas State Board of Pharmacy, is amended to read as follows:

(2)(A) Upon written authorization by the board, the ~~board's~~ Department of Health's inspectors and other designated agents may obtain copies of any document, prescription, drug order, or other record or physical object relevant to the board's oversight of the regulated activity.

SECTION 66. Arkansas Code § 17-92-205(c)(2)(B)(i), concerning the rules and regulations of the Arkansas State Board of Pharmacy, is amended to read as follows:

(B)(i) With regard to hospital pharmacies, the ~~board's~~ Department of Health's inspectors and other designated agents may also view and at the board's expense make copies of identifiable records relating to patients in patient areas of the hospital if the records are relevant to an activity regulated by the board.

SECTION 67. Arkansas Code § 17-92-205(c)(6), concerning the rules and regulations of the Arkansas State Board of Pharmacy, is amended to read as follows:

(6) The ~~board's~~ Department of Health's inspectors and other designated agents may seize products for testing of sterility, potency, and pyrogenicity when inspecting permitted facilities.

SECTION 68. Arkansas Code § 17-92-206(b), concerning the issuance of bulletins and the annual report of the Arkansas State Board of Pharmacy, is amended to read as follows:

(b) The board shall make a written report on September 1 of each year to the ~~Governor~~ Secretary of the Department of Health and to the Arkansas Pharmacists Association of all its proceedings, orders, rules, requirements, and regulations, of its receipts and disbursements, including also the names of all persons licensed to practice under this chapter, and a record of permits and renewals.

SECTION 69. Arkansas Code § 17-92-207 is repealed.

~~17-92-207. Maintenance of office.~~

~~The Arkansas State Board of Pharmacy shall have the authority to maintain an office, purchase supplies, etc., for the advancement of pharmacy as may in its judgment be deemed necessary to carry out the purposes of this chapter and to enforce the pharmacy laws of this state.~~

SECTION 70. Arkansas Code § 17-92-208 is amended to read as follows:

17-92-208. ~~Authority~~ Authorization for payment to the Department of Health.

(a) The Arkansas State Board of Pharmacy ~~is authorized to~~ may make payment to the Department of Health for services, salaries, and other purposes from the funds received by the board from issuance of licensed pharmacy permits, renewals, or certificates of licensure of licensed pharmacists, examinations, reciprocity fees, and from other moneys collected.

(b)(1) The ~~board is authorized to~~ department may employ an attorney to supervise and conduct its investigations and to institute and prosecute actions and charges for the violation of the provisions of the Arkansas Pharmacy Act, § 17-92-101 et seq.

(2) The attorney employed or retained by the ~~board~~ department may make regular reports to the Attorney General of the actions instituted or prosecuted by him or her.

(3) Appeals from the circuit court to the Supreme Court in matters affecting the action of the board may be handled by the office of the Attorney General.

(c) The board ~~is authorized to~~ may make reimbursement of the necessary and reasonable travel, board, and lodging expenses of the staff of the board incurred in the performance of their duties.

SECTION 71. Arkansas Code § 17-93-406(8), concerning the powers and duties of the Arkansas State Board of Athletic Training, is amended to read as follows:

(8) To file an annual report of its activities, including the activities of the board, with the Department of ~~Finance and Administration~~ Health.

SECTION 72. Arkansas Code § 17-95-301(f)(2), concerning the creation of the Arkansas State Medical Board, is amended to read as follows:

(2) The ~~Executive~~ Director of the Arkansas State Medical Board and the Deputy Director of the Arkansas State Medical Board shall receive such additional salary as may be fixed by the ~~board~~ Department of Health.

SECTION 73. Arkansas Code § 17-95-301(h)(1)(C)(ii), concerning the creation of the Arkansas State Medical Board, is amended to read as follows:

(ii) The Division of Pharmacy Services and Drug Control of the Department of Health shall prepare a report for the ~~Governor~~ Secretary of the Department of Health based on its findings.

SECTION 74. Arkansas Code § 17-95-303 is amended to read as follows:  
17-95-303. Powers and duties.

The Arkansas State Medical Board shall:

(1) Make and adopt all rules, ~~regulations~~, and bylaws not inconsistent with the laws of this state or of the United States and necessary or convenient to perform the duties and to transact the business required by law;

(2) Have authority to promulgate and put into effect such rules ~~and regulations~~ as are necessary to carry out the purposes of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., and the intentions expressed therein;

(3)(A)(i) Have authority to request the Department of Health employ attorneys to represent the board in all legal matters for a compensation approved by the board.

(ii) Contracts for employment of attorneys shall be filed by the ~~Executive Director of the Arkansas State Medical Board~~ Secretary of the Department of Health with the Legislative Council.

(B) The board shall ~~further~~ have authority to request the assistance of the Attorney General and the prosecuting attorneys of Arkansas in such manner as it deems necessary and proper;

(4) Have the authority to employ ~~an executive~~ a director ~~and a deputy director~~ with the approval of the secretary to carry out the purposes and the mandates of the board ~~and to supervise the other employees of the board;~~

(5) ~~Have the authority to employ a medical director, who shall hold a valid license to practice medicine in this state, to evaluate medical~~

~~issues and to assist in investigations pending before the board;~~

~~(6) Have the power and authority to employ such secretarial and administrative assistance as may be necessary to carry out the provisions of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., and the duties of the board to protect the people of the State of Arkansas;~~

~~(7) Have the power and authority to employ one (1) or more inspectors as may be necessary to carry out the provisions of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., and the duties of the board to protect the people of the State of Arkansas;~~

(8) Examine, as is provided for by law, all applicants for a license to practice medicine in this state;

(9) Consider and give deference to data, studies, consensus documents, and conclusions issued by the Centers for Disease Control and Prevention or the National Institutes of Health whenever their data, studies, consensus documents, and conclusions are relevant to any decision made pursuant to the board's powers and duties under the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.;

~~(10)~~(6) Have the power and authority to collect practice data from licensees; and

~~(11)~~(7) Promulgate rules limiting the amount of Schedule II narcotics that may be prescribed and dispensed by licensees of the board.

SECTION 75. Arkansas Code § 17-95-304(a), concerning the inspectors of the Division of Pharmacy Services and Drug Control of the Department of Health, is amended to read as follows:

(a)(1) The Arkansas State Medical Board shall utilize ~~as its employees~~ the investigators and inspectors of the Division of Pharmacy Services and Drug Control of the Department of Health.

(2) The Department of Health is directed to make investigators and inspectors available for those purposes for as long as they may conduct investigations and inspections of prescriptions.

SECTION 76. Arkansas Code § 17-95-304(b)(2), concerning the inspectors

of the Division of Pharmacy Services and Drug Control of the Department of Health, is amended to read as follows:

(2) The inspectors shall have the duty and authority upon written direction by the ~~Executive~~ Director of the Arkansas State Medical Board to investigate, inspect, and make copies of the records, orders, and prescriptions, wherever located, of all persons licensed by the board in order to determine whether or not the persons have:

(A) Violated the laws of the State of Arkansas or of the United States respecting the prescription and use of narcotics and potentially dangerous drugs;

(B) Practiced their profession in such a way as to endanger the general health and welfare of the public; or

(C) Violated the provisions of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.

SECTION 77. Arkansas Code § 17-95-305(b), concerning the disposition of funds of the Arkansas State Medical Board, is amended to read as follows:

(b)(1) All moneys received by the board shall be disbursed by the Chair of the Arkansas State Medical Board or the ~~Executive~~ Director of the Arkansas State Medical Board.

(2) The ~~chair or the executive director, or both,~~ board shall furnish a surety bond and shall keep a true and faithful account of all moneys received and all moneys expended.

(3) The ~~executive director~~ chair shall file annually with the ~~Governor~~ Secretary of the Department of Health a report of all financial transactions duly audited by an independent accountant.

SECTION 78. Arkansas Code § 17-95-310 is repealed.

~~17-95-310. Medical Director of Arkansas State Medical Board—  
Qualifications.~~

~~The Medical Director of the Arkansas State Medical Board shall:~~

~~(1) Have been in full-time clinical practice of medicine in direct patient care within one (1) year of filling the position of medical director;~~

~~(2) Have fifteen (15) years of current, continuous full-time~~

~~medical service immediately before the date of appointment, which shall include, but not be limited to, at least ten (10) years of full-time clinical practice in direct patient care, five (5) years of which shall have been in full-time clinical practice in direct patient care in the State of Arkansas;~~

~~(3) Have not served on the Arkansas State Medical Board within the past five (5) years; and~~

~~(4) Have a comprehensive knowledge of the contemporary, broad-based clinical practice of medicine with experience in direct patient care.~~

SECTION 79. Arkansas Code § 17-95-409(b)(2), concerning the denial, suspension, or revocation of a license by the Arkansas State Medical Board, is amended to read as follows:

(2) Upon notification from the Dean of the College of Medicine of the University of Arkansas for Medical Sciences and the ~~Director~~ Secretary of the Department of Health that exigent circumstances warrant a waiver of the suspension, the Arkansas State Medical Board shall reinstate the holder's license.

SECTION 80. Arkansas Code § 17-96-203(a), concerning payment of expenses and compensation of members of the Arkansas Board of Podiatric Medicine, is amended to read as follows:

(a) The Arkansas Board of Podiatric Medicine is empowered to incur whatever expenses ~~it~~ the board may deem necessary or expedient in performing ~~its~~ the board's functions, ~~and it may employ whatever assistants it may deem necessary or expedient and fix their compensation.~~

SECTION 81. Arkansas Code § 17-97-203(1), concerning the powers and duties of the Arkansas Psychology Board, is repealed.

~~(1) Be empowered to hire assistants as necessary to carry on its activities, within the limits of funds available to the board;~~

SECTION 82. Arkansas Code § 17-97-204(a), concerning the collection and disposition of fees by the Arkansas Psychology Board, is amended to read as follows:

(a) The Arkansas Psychology Board ~~is authorized to~~ may establish ~~and collect~~ various fees and penalties for services related to provision of

temporary permits, printed materials, handling returned checks, costs incurred in processing delinquent payments, and other reasonable services as may be determined by the board and the Department of Health is authorized to collect such fees and penalties.

SECTION 83. Arkansas Code § 17-98-203(c), concerning the rules and regulations of the State Board of Disease Intervention Specialists, is repealed.

~~(c) The board, if moneys are appropriated therefor, may employ and fix the compensation of such assistants, clerks, stenographers, typists, and other employees to serve at the pleasure of the board, and acquire such office space, furniture, supplies, equipment, and other such proper conveniences as may be reasonably necessary for the performance of their duties under this chapter.~~

SECTION 84. Arkansas Code § 17-100-201(a), concerning the creation of the Board of Examiners in Speech-Language Pathology and Audiology, is amended to read as follows:

(a) There is established ~~as an independent agency of the executive branch of the government of the State of Arkansas~~ the Board of Examiners in Speech-Language Pathology and Audiology within the Department of Health.

SECTION 85. Arkansas Code § 17-100-204 is amended to read as follows:

17-100-204. ~~Officers and employees~~ Director.

(a) The Board of Examiners in Speech-Language Pathology and Audiology may employ and, ~~at its pleasure, discharge, with the approval of the Secretary of the Board of Health, an executive secretary and such officers and employees~~ a Director of the Board of Examiners in Speech-Language Pathology and Audiology as may be necessary to carry out the duties of the board.

(b) The board shall outline duties and fix compensation of ~~employees~~ the director in accordance with law.

(c) The amount of per diem and mileage and expense moneys paid ~~employees of the board~~ to the director shall be in accordance with applicable law.

SECTION 86. Arkansas Code § 17-100-206 is amended to read as follows:  
17-100-206. Disposition of funds – Reports.

(a) All fees and other funds received by the Board of Examiners in Speech-Language Pathology and Audiology shall be deposited into a bank account in the name of the board in one (1) or more banks in this state and shall be used by the board exclusively for payment to the Department of Health of reasonable and necessary salaries, maintenance, and operating expenses in the performance of duties imposed on the board under the provisions of this chapter or the payment of the salary of the Director of the Board of Examiners in Speech-Language Pathology and Audiology.

(b) The board shall report monthly to the Department of Health and the Department of Finance and Administration the amount and source of all revenue received by it pursuant to this chapter during the preceding month.

(c) All appropriate expenses incurred by the board in the administration of the provisions of this chapter shall be paid when vouchers relating to such expenses are exhibited as having been approved by the board.

(d)(1) The board shall be financed from income accruing from fees, licenses, and other income collected by the board.

(2) All ~~employee salaries and other~~ expenses, which may include full or partial financing of continuing professional education programs adopted by the board under § 17-100-306, and the salary of the director shall be paid as budgeted after budgets are approved or within the limitations of any appropriation for that purpose that may be included in any appropriate Arkansas appropriations law.

(3) All employee salary reimbursement amounts shall be determined by the Department of Health and shall be paid as budgeted after budgets are approved or within the limitations of any appropriation for that purpose that may be included in any appropriate Arkansas appropriations law.

(e) The board will have the authority to establish and change fees for application, examination, renewal, inactivation, reactivation, and delinquency purposes.

SECTION 87. Arkansas Code § 17-102-206(a)(1), concerning the Arkansas State Board of Acupuncture and Related Techniques, is amended to read as follows:

(a)(1) The Arkansas State Board of Acupuncture and Related Techniques is empowered to incur whatever expenses it may deem necessary or expedient in performing its functions. ~~It may employ or engage whatever personnel, legal counsel, independent contractors, or assistants it may deem necessary or expedient therefor and fix their compensation. However, no employee of the Arkansas State Board of Acupuncture and Related Techniques shall have any financial interest in the occupation of acupuncture and related techniques.~~

SECTION 88. Arkansas Code § 17-103-202(e), concerning the organization and function of the Arkansas Social Work Licensing Board, is amended to read as follows:

(e) The board ~~shall~~ may employ ~~necessary personnel~~ a Director of the Arkansas Social Work Licensing Board, with the approval of the Secretary of the Department of Health, for the performance of its functions and fix the compensation of the ~~personnel~~ director within the limits of funds available to the board.

SECTION 89. Arkansas Code § 17-103-204(a), concerning the disposition of the funds of the Social Work Licensing Fund, is amended to read as follows:

(a) The ~~Executive~~ Director of the Arkansas Social Work Licensing Board or his or her designee shall receive and account for all money derived under the provisions of this chapter and shall pay the money to the Treasurer of State, who shall keep the money in a separate fund to be known as the "Social Work Licensing Fund".

SECTION 90. Arkansas Code § 17-103-204(d), concerning the disposition of the funds of the Social Work Licensing Fund, is amended to read as follows:

(d) The ~~executive~~ director shall be bonded to handle the finances of the Arkansas Social Work Licensing Board in compliance with state rules.

SECTION 91. Arkansas Code § 17-106-104(a)(1)(B), concerning the Medical Ionizing Radiation Licensure Committee, is amended to read as follows:

(B) One (1) member shall be the ~~Director~~ Secretary of the

Department of Health or his or her designee.

SECTION 92. Arkansas Code § 17-106-105(a)(1)(A), concerning the duties and powers of the State Board of Health, is amended to read as follows:

(A)(i) Incur whatever expenses ~~it~~ the board may deem necessary or expedient in performing ~~its~~ the board's duties under the provisions of this chapter.

(ii) ~~It~~ The board, pursuant to the administration of the Department of Health, may employ or engage whatever personnel, legal counsel, independent contractors, or assistants it may deem necessary or expedient and fix their compensation;

SECTION 93. Arkansas Code § 17-107-202(e), concerning the organization and proceedings of the Arkansas Orthotics, Prosthetics, and Pedorthics Advisory Board, is amended to read as follows:

(e) ~~The Division of Medical Services of the Department of Human Services~~ Department of Health shall provide staff support for the board.

SECTION 94. Arkansas Code § 19-5-307(a)(2), concerning the Public Health Fund, is amended to read as follows:

(2) The ~~Director~~ Secretary of the Department of Health;

SECTION 95. Arkansas Code § 19-12-113(b), resulting from Initiated Act 1 of 2000 concerning the establishment and administration of prevention and cessation programs, is amended to read as follows:

(b) The Department of Health shall be responsible for developing, integrating, and monitoring tobacco prevention and cessation programs funded under this chapter and shall provide administrative oversight and management, including, but not limited to implementing performance based measures. The Department of Health shall have authority to award grants and allocate money appropriated to implement the tobacco prevention and cessation program mandated under this chapter. The Department of Health may contract with those entities necessary to fully implement the tobacco prevention and cessation initiatives mandated under this chapter. Within thirty (30) days of receipt of moneys into the Prevention and Cessation Program Account, fifteen percent (15%) of those moneys shall be deposited into a special

account within the prevention and cessation account at the Department of Health to be expended for tobacco prevention and cessation in minority communities as directed by the ~~Director~~ Secretary of the Department of Health in consultation with the Chancellor of the University of Arkansas at Pine Bluff, the President of the Arkansas Medical, Dental, and Pharmaceutical Association, and the League of United Latin American Citizens.

SECTION 96. Arkansas Code § 19-12-117 resulting from Initiated Act 1 of 2000 is amended to read as follows:

19-12-117. Establishment of the Arkansas Tobacco Settlement Commission.

(a) There is hereby created and recognized the Arkansas Tobacco Settlement Commission, which shall be composed of the following:

- (1) The ~~Executive~~ Director of the Arkansas Economic Development Commission or his or her designee;
- (2) The ~~Director of the Department of Education~~ Commissioner of Education of the Division of Primary and Secondary Education or his or her designee;
- (3) The Director of the ~~Department~~ Division of Higher Education or his or her designee;
- (4) The ~~Director~~ Secretary of the Department of Human Services or his or her designee;
- (5) The ~~Director~~ Secretary of the Department of Health or his or her designee;
- (6) A healthcare professional to be selected by the President Pro Tempore of the Senate;
- (7) A healthcare professional to be selected by the Speaker of the House of Representatives;
- (8) A citizen selected by the Governor; and
- (9) A citizen selected by the Attorney General.

(b)(1) The four (4) members of the commission who are not on the commission by virtue of being a director of an agency, will serve four-year terms. The terms shall commence on October 1 of each year. Commission members are limited to serving two (2) consecutive four-year terms.

(2) Members of the commission shall not be entitled to compensation for their services, but may receive expense reimbursement in

accordance with § 25-16-902, to be paid from funds appropriated for this program.

(c) Members appointed to the commission and the organizations they represent shall make full disclosure of the members' participation on the commission when applying for any grant or contract funded by this chapter.

(d) All members appointed to the commission shall make full and public disclosure of any past or present association to the tobacco industry.

(e) The commission shall, within ninety (90) days of appointment, hold a meeting and elect from its membership a chair for a term set by the commission. The commission is authorized to adopt bylaws.

(f) The commission shall meet at least quarterly. However, special meetings of the commission may be called at any time at the pleasure of the chair or pursuant to the bylaws of the commission.

(g) The commission is authorized to hire an independent third party with appropriate experience in health, preventive resources, health statistics, and evaluation expertise to perform monitoring and evaluation of program expenditures made from the program accounts pursuant to this chapter. Such monitoring and evaluation shall be performed in accordance with § 19-12-118, and the third party retained to perform such services shall prepare a biennial report to be delivered to the General Assembly and the ~~Governor~~ Secretary of the Department of Health by each August 1 preceding a general session of the General Assembly. The report shall be accompanied by a recommendation from the commission as to the continued funding for each program.

(h) ~~The commission is authorized to hire such staff as it may reasonably need to carry out the duties described in this chapter.~~ The costs and expenses of the monitoring and evaluation program, as administered by the Department of Health, as well as the salaries, costs, and expenses of staff shall be paid from the Arkansas Tobacco Settlement Commission Fund established pursuant to § 19-12-108.

(i) If the deposits into the Arkansas Tobacco Settlement Commission Fund exceed the amount necessary to pay the costs and expenses described in subsection (h) of this section, then the commission is authorized to make grants as follows:

(1) Those organizations eligible to receive grants are nonprofit and community based;

(2) Grant criteria shall be established based upon the following principles:

(A) All funds should be used to improve and optimize the health of Arkansans;

(B) Funds should be spent on long-term projects that improve the health of Arkansans;

(C) Future tobacco-related illness and health care costs in Arkansas should be minimized through this opportunity; and

(D) Funds should be invested in solutions that work effectively and efficiently in Arkansas; and

(3) Grant awards shall be restricted in amounts up to fifty-thousand dollars (\$50,000) per year for each eligible organization.

SECTION 97. Arkansas Code § 20-2-103(a)(1), concerning the powers and duties of the Arkansas Minority Health Commission, is amended to read as follows:

(1) Establish the commission as the comprehensive ~~agency~~ commission in this state for:

(A) Gathering and analyzing information regarding disparities in health and health care and access to health and healthcare services in this state;

(B) Statewide educational programming regarding disparities in health and health care and equal access to health and healthcare services; and

(C) Coordinating events regarding disparities in health and health care and access to health and healthcare services;

SECTION 98. Arkansas Code § 20-2-103(a)(2)(B), concerning the powers and duties of the Arkansas Minority Health Commission, is amended to read as follows:

(B) The following health and healthcare-related state ~~agencies~~ entities and divisions of state ~~agencies~~ entities shall collaborate with the commission to achieve healthcare equity in the state of Arkansas:

(i) The Department of Health;

(ii) The Department of Human Services;

(iii) The ~~Arkansas Department~~ Division of

Environmental Quality;

(iv) The Fay W. Boozman College of Public Health of the University of Arkansas for Medical Sciences; and

(v) The Arkansas Center for Health Improvement.

SECTION 99. Arkansas Code § 20-2-103(a)(5), concerning the powers and duties of the Arkansas Minority Health Commission, is amended to read as follows:

(5) Make recommendations to the relevant agencies, to the ~~Governor~~ Secretary of the Department of Health, and to the General Assembly for improving the delivery of and access to health services for minorities;

SECTION 100. Arkansas Code § 20-2-107 is amended to read as follows:  
20-2-107. Report on health disparities.

On or before October 1 each year, the Arkansas Minority Health Commission shall report to the ~~Governor~~ Secretary of the Department of Health, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Chair of the House Committee on Public Health, Welfare, and Labor, and the Chair of the Senate Committee on Public Health, Welfare, and Labor without limitation:

(1) Summarizing the previous year's work under § 20-2-103(a)(5) and (6);

(2) Describing reductions in disparities in health and health care in this state; and

(3) Outlining plans for continuing and expanding in the coming year the program to reduce disparities in health and health care in this state.

SECTION 101. Arkansas Code § 20-7-102(a)(17), concerning the members of the State Board of Health, is amended to read as follows:

(17) One (1) member shall be the ~~Director~~ Secretary of the Department of Health.

SECTION 102. Arkansas Code § 20-7-103 is amended to read as follows:  
20-7-103. Members – Officers.

(a) The members of the State Board of Health shall elect one (1) of

the members as president.

(b)(1) The State Board of Health shall nominate to the ~~Governor~~ Secretary of the Department of Health a Director of the Department of Health.

~~(2)(A)~~ The Governor Secretary of the Department of Health may shall appoint the director who shall serve at the pleasure of the Governor employ a Director of the Department of Health.

(B) The Secretary of the Department of Health may serve as the Director of the Department of Health if the Governor determines all statutory requirements are fulfilled.

~~(3)(2)~~ The director shall may:

(A) Serve as the State Health Officer;

(B) Serve as the Secretary for the State Board of Health and shall have all the powers of a member of the State Board of Health but shall not sit as a member of the State Board of Health;

(C)(i)(a) Be a licensed medical doctor who is a graduate of a school of medicine recognized by the Arkansas State Medical Board;

(b) Hold a graduate degree in public health or a graduate degree in a recognized public health discipline from an accredited college or university or have equivalent knowledge and experience in public health as determined by the ~~State Board of Health~~ Secretary of the Department of Health; and

(c) Have experience in the practice of public health and in leadership and management, the sufficiency of which shall be determined by the ~~State Board of Health~~ Secretary of the Department of Health; or

(ii) Hold a doctoral degree in public health or a doctoral degree in a recognized public health discipline from an accredited college or university with at least five (5) years of experience in the practice of public health and at least ten (10) years of experience in the leadership and management of a large complex organization, the sufficiency of which shall be determined by the ~~State Board of Health~~ Secretary of the Department of Health.

SECTION 103. Arkansas Code § 20-7-106 is amended to read as follows:  
20-7-106. Office.

The office of the State Board of Health shall be located in Little

Rock, and the board shall be furnished with all necessary equipment and supplies, including laboratory supplies, books, stationery, blanks, furniture, etc., as are provided other officers of the state and as are necessary for carrying on the work of the board, and the office is to be provided in a suitable building to be designated by the ~~Director~~ Secretary of the Department of Health.

SECTION 104. Arkansas Code § 20-7-107 is amended to read as follows:  
20-7-107. Appointment of assistant director.

The ~~Director~~ Secretary of the Department of Health may appoint and employ an assistant director who shall be knowledgeable in the field of public health and whose duty it shall be to assist the director in the general supervision of the affairs of his or her office and in the enforcement of quarantine and sanitation throughout the state.

SECTION 105. Arkansas Code § 20-7-108 is amended to read as follows:  
20-7-108. Engagement of certain personnel.

~~From time to time, the State Board of Health~~ The Department of Health may engage suitable persons to render sanitary service, to make or supervise practical and scientific investigations and examinations requiring expert skill, and to prepare plans and to report relative to sanitary service.

SECTION 106. Arkansas Code § 20-7-111(c), concerning the administration of certain federal acts by the State Board of Health, is amended to read as follows:

(c)(1) The ~~Director~~ Secretary of the Department of Health shall act as executive officer ~~of the board~~ for the purpose of administering the federal acts and this section.

(2) The ~~director~~ secretary shall carry into effect such rules and regulations as the federal authorities and the board may adopt pursuant to the federal acts and this section.

SECTION 107. Arkansas Code § 20-7-114(a)(2), concerning the establishment of a public health laboratory by the State Board of Health, is amended to read as follows:

(2) The public health laboratory shall be established and

maintained at the Department of Health under the direct supervision of the ~~Director~~ Secretary of the Department of Health or his or her authorized representatives.

SECTION 108. Arkansas Code § 20-7-117(a), concerning the creation of the State Hospice Office, is amended to read as follows:

(a) There is created within the Department of Health a State Hospice Office to be administered in a division of the department to be designated by the ~~Director~~ Secretary of the Department of Health.

SECTION 109. Arkansas Code § 20-7-121(a), concerning the annual report of the State Board of Health, is amended to read as follows:

(a) It shall be the duty of the State Board of Health to make an annual written report through the ~~Director~~ Secretary of the Department of Health to the Governor on or before January 1 of each year.

SECTION 110. Arkansas Code § 20-7-133(b)(1), concerning the creation of the Child Health Advisory Committee, is amended to read as follows:

(b)(1) The ~~Director~~ Secretary of the Department of Health shall appoint:

- (A) One (1) member to represent the Department of Health;
- (B) One (1) member to represent the Arkansas Academy of Nutrition and Dietetics;
- (C) One (1) member to represent the American Academy of Pediatrics, Arkansas Chapter;
- (D) One (1) member to represent the Arkansas Academy of Family Practice;
- (E) One (1) member to represent the Arkansas Association for Health, Physical Education, Recreation and Dance;
- (F) One (1) member to represent jointly the American Heart Association, the American Cancer Society, and the American Lung Association;
- (G) One (1) member to represent the Fay W. Boozman College of Public Health of the University of Arkansas for Medical Sciences;
- (H) One (1) member to represent the Arkansas Center for Health Improvement;
- (I) One (1) member to represent the Arkansas Advocates for

Children and Families;

(J) One (1) member to represent the University of Arkansas Cooperative Extension Service; and

(K) One (1) member to represent the Office of Minority Health and Health Disparities of the Department of Health.

SECTION 111. Arkansas Code § 20-7-202(4), concerning the definition of "director" under the Arkansas Health Department Building and Local Grant Act, is amended to read as follows:

(4) "~~Director~~ Secretary" or "~~State Health Officer~~" means the ~~Director~~ Secretary of the Department of Health;

SECTION 112. Arkansas Code § 20-7-203 is amended to read as follows:  
20-7-203. Disposition of funds.

(a) The ~~Director~~ Secretary of the Department of Health may construct or acquire such facilities and property as are necessary for the provision of current and future requirements for the Department of Health.

(b) Notwithstanding other provisions of this subchapter, the ~~director~~ secretary, with the approval of the State Board of Health, may use any unobligated funds in the State Health Department Building and Local Grant Trust Fund in an amount not to exceed six hundred fifty thousand dollars (\$650,000) to construct or acquire any land, building, structure, or other property, real, personal, or mixed, and any expenses incidental thereto which are deemed appropriate for the provision of current and future requirements for the department.

(c) With the approval of the board, the ~~director~~ secretary may lease, sublease, or otherwise negotiate for the use of any space acquired or constructed under this subchapter to other governmental and nongovernmental entities. Revenues derived from any such lease, sublease, or other arrangement shall be deposited into the Public Health Fund.

(d) Neither the ~~director~~ secretary nor any member of the board shall be personally liable for any obligation or action undertaken in connection therewith or for any damages sustained by anyone with respect to any obligations or actions unless he or she shall have acted with a corrupt intent.

SECTION 113. Arkansas Code § 20-7-204(c), concerning the State Health Department Building and Local Grant Trust Fund, is amended to read as follows:

(c) The ~~Director~~ Secretary of the Department of Health shall be the disbursing agent and executive officer for the fund.

SECTION 114. Arkansas Code § 20-7-303(a) and (b), concerning the collection and dissemination of health data, are amended to read as follows:

(a) With the approval of the State Board of Health, the ~~Director~~ Secretary of the Department of Health shall compile and disseminate health data collected by the Department of Health.

(b)(1) In consultation with advisory groups appointed by the ~~director~~ secretary with representation from hospitals, outpatient surgery centers, health profession licensing boards, and other state agencies, the department should:

(A) Identify the most practical methods to collect, transmit, and share required health data as described in § 20-7-304;

(B) Utilize, wherever practical, existing administrative databases and modalities of data collection to provide the required data;

(C) Develop standards of accuracy, timeliness, economy, and efficiency for the provision of the data; and

(D) Ensure confidentiality of data by enforcing appropriate rules and regulations.

(2) To maximize limited resources and to prevent duplication of effort, the department may consider, when appropriate, contracting with private entities for the collection of data as set forth in this section subject to this subchapter.

SECTION 115. Arkansas Code § 20-7-303(c)(2), concerning the collection and dissemination of health data, is amended to read as follows:

(2) If health data are already reported to another organization or governmental agency in the same manner, form, and content or in a manner, form, and content acceptable to the department, the ~~director~~ secretary may obtain a copy of the data from the organization or agency, and no duplicate report need be submitted by the organization.

SECTION 116. Arkansas Code § 20-7-304 is amended to read as follows:  
20-7-304. Release of health data.

The ~~Director~~ Secretary of the Department of Health may release data collected under this subchapter, except that data released shall not include any information which identifies or could be used to identify any individual patient, provider, institution, or health plan except as provided in § 20-7-305.

SECTION 117. Arkansas Code § 20-7-306(a), concerning reports and assistance by the Department of Health under the State Health Data Clearinghouse Act, is amended to read as follows:

(a) The ~~Director~~ Secretary of the Department of Health shall prepare and submit a biennial report to the Governor and the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor or appropriate subcommittees thereof.

SECTION 118. Arkansas Code § 20-7-403(5), concerning the definition of "construct" under the Combating Prescription Drug Abuse Act, is amended to read as follows:

(5) "Construct" means to acquire, construct, reconstruct, remodel, install, and equip any lands, buildings, structures, improvements, or other property, whether real, personal, or mixed, useful in connection with the expansion, by any method and manner as may be authorized by law, and in the case of the acquisition of equipment and other property of a medical, laboratory, or technical nature, by any method as the board or the ~~Director~~ Secretary of the Department of Health determines to be necessary or desirable to accomplish the power, purposes, and authorities set forth in this subchapter and without regard to the provisions of other laws pertaining to the construction and acquisition of property by state agencies;

SECTION 119. Arkansas Code § 20-7-403(7), concerning the definition of "Director" under the Combating Prescription Drug Abuse Act, is repealed.

~~(7) "Director" means the Director of the Department of Health;~~

SECTION 120. Arkansas Code § 20-7-404(b) and (c), concerning the approval of construction of a laboratory under the Combating Prescription

Drug Abuse Act, are amended to read as follows:

(b) Subject to the approval of the board, the plans, specifications, and estimates of cost for the laboratory and renovation of the building shall be developed by the ~~Director~~ Secretary of the Department of Health, and the ~~director~~ secretary may employ architects and other like professional and technical assistance as determined to be necessary for the construction of the laboratory and renovation of the building.

(c) The board and the ~~director~~ secretary may take such action as may be appropriate for the construction of the laboratory and renovation of the building to accomplish the purposes of this subchapter and may engage legal, technical, and other assistance as necessary.

SECTION 121. Arkansas Code § 20-7-405(d), concerning the financing of construction and renovation of a laboratory under the Combating Prescription Drug Abuse Act, is amended to read as follows:

(d) The board and the ~~Director~~ Secretary of the Department of Health may execute and deliver agreements, instruments, and other undertakings and writings and take such action as may be appropriate to evidence the loan and the security for the loan and to carry out this subchapter.

SECTION 122. Arkansas Code § 20-7-408(a)(1), concerning the disposition of fees under the Combating Prescription Drug Abuse Act, is amended to read as follows:

(a)(1) Except as set forth in this subchapter, all fee revenues shall be treated as cash funds and shall not be deposited into the State Treasury, but shall be deposited as and when received into a bank or banks approved by the State Board of Health or the ~~Director~~ Secretary of the Department of Health in an account or accounts of the board designated the "State Board of Health Laboratory Revenue Fund".

SECTION 123. Arkansas Code § 20-7-408(c)(2), concerning the disposition of fees under the Combating Prescription Drug Abuse Act, is amended to read as follows:

(2) All transfers from the State Board of Health Laboratory Revenue Fund and the State Board of Health Public Health Laboratory Construction Fund shall be made by or at the direction of the ~~director~~

secretary.

SECTION 124. Arkansas Code § 20-7-408(c)(3)(A), concerning the disposition of fees under the Combating Prescription Drug Abuse Act, is amended to read as follows:

(A) The ~~director~~ secretary; or

SECTION 125. Arkansas Code § 20-7-409 is amended to read as follows:

20-7-409. State Board of Health Public Health Laboratory Construction Fund.

The proceeds of the loan other than amounts required to establish reserves, to pay interest on the loan for a period not to exceed one (1) year, or to pay costs of the loan and of issuing bonds, all of which shall be set forth in written directions executed by the ~~Director~~ Secretary of the Department of Health, shall be deposited as cash funds into an account of the State Board of Health designated the "State Board of Health Public Health Laboratory Construction Fund" and disbursed by the ~~director~~ secretary for the construction of the expansion.

SECTION 126. Arkansas Code § 20-7-410(a), concerning investment of funds in the State Board of Health Public Health Laboratory Revenue Fund and the State Board of Health Public Health Laboratory Construction Fund, is amended to read as follows:

(a) All moneys held at any time in the State Board of Health Laboratory Revenue Fund and the State Board of Health Public Health Laboratory Construction Fund shall be invested and reinvested to the extent feasible, as directed by the ~~Director~~ Secretary of the Department of Health.

SECTION 127. Arkansas Code § 20-7-412 is amended to read as follows:

20-7-412. Limitations on liability.

Neither the ~~Director~~ Secretary of the Department of Health nor any member of the State Board of Health shall be personally liable on the loan or on account of any of the obligations or actions undertaken in connection with the loan, or for any damages sustained by anyone with respect to the obligations or actions, unless he or she acted with a corrupt intent.

SECTION 128. Arkansas Code § 20-7-604(d)(2)(D), concerning the requirements for the Prescription Drug Monitoring Program, is amended to read as follows:

(D) The State Board of Health may amend, by rule, the exemptions listed in subdivision (d)(2)(C) of this section upon a recommendation from the ~~Director~~ Secretary of the Department of Health and a showing that the exemption or lack of exemption is unnecessarily burdensome or has created a hardship.

SECTION 129. Arkansas Code § 20-7-607(a)(1)(A)(i), concerning providing Prescription Drug Monitoring Program information, is amended to read as follows:

(a)(1)(A)(i) The Department of Health shall review the Prescription Drug Monitoring Program information, including without limitation a review to identify information that appears to indicate whether a person is obtaining prescriptions in a manner that may represent misuse or abuse of controlled substances based on prescribing criteria determined by the ~~Director~~ Secretary of the Department of Health upon consultation with the Prescription Drug Monitoring Program Advisory Committee.

SECTION 130. Arkansas Code § 20-7-614(b), concerning the effective date of the Prescription Drug Monitoring Program, is amended to read as follows:

(b) The ~~Director~~ Secretary of the Department of Health may suspend operation of the program if adequate funding under § 20-7-610 ceases.

SECTION 131. Arkansas Code § 20-8-104 is amended to read as follows:  
20-8-104. Health Services Permit Agency – Powers and duties.

(a) There is created and established the Health Services Permit Agency, which shall be ~~an independent agency~~ under the supervision and control of the ~~Governor~~ Department of Health.

(b) The agency, under the administration of the Department of Health, shall possess and exercise such duties and powers as necessary to implement the policy and procedures adopted by the Health Services Permit Commission.

(c) The agency, under the administration of the Department of Health, shall review all applications for permits of approval and approve or deny the

application within ninety (90) days from the date the application is deemed complete and submitted for review.

(d) The State of Arkansas shall not participate in the capital expenditures review program, otherwise known as the 1122 Program, unless it becomes mandatory for continuation in federal programs authorized under Title V of the Social Security Act, 42 U.S.C. § 701 et seq., Title XIV of the Social Security Act, 42 U.S.C. § 1351 et seq., and Title XVII of the Social Security Act, 42 U.S.C. § 1391 et seq., for all states.

(e) The agency, under the administration of the Department of Health, shall assist the commission in the performance of its duties under this subchapter.

SECTION 132. Arkansas Code § 20-8-105 is amended to read as follows:  
20-8-105. Director.

There shall be a Director of the Health Services Permit Agency, who shall be the executive head of the Health Services Permit Agency. The director shall be ~~appointed by the Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor~~ employed by the Secretary of the Department of Health.

SECTION 133. Arkansas Code § 20-8-108 is amended to read as follows:  
20-8-108. Fees and fines.

All fees and fines collected under this subchapter shall be deposited into the Miscellaneous Agencies Fund Account to be used exclusively for the maintenance and operation of the Health Services Permit Agency, including any agreements to reimburse the Department of Health for costs associated with the operation of the Health Services Permit Agency.

SECTION 134. Arkansas Code § 20-8-110(g), concerning the collection and dissemination of health data, is amended to read as follows:

(g) The ~~director~~ Secretary of the Department of Health shall prescribe such rules ~~and regulations~~ as may be necessary to carry out the purpose of this section.

SECTION 135. Arkansas Code § 20-8-110(h)(2)(A), concerning the collection and dissemination of health data, is amended to read as follows:

(2)(A) The director shall prepare an annual report of the Health Services Permit Agency's findings and submit the report to the ~~Governor~~ Secretary of the Department of Health, the General Assembly, and the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor or appropriate subcommittees thereof.

SECTION 136. Arkansas Code § 20-8-203(1)(G), concerning the powers and duties of the Arkansas Spinal Cord Commission, is amended to read as follows:

(G) Provide an annual report to the ~~Governor~~ Secretary of the Department of Health, to the General Assembly, and to the public documenting areas of success, unresolved problems, and overall cost-benefit analyses of expenditures from the various sources;

SECTION 137. Arkansas Code § 20-8-505(b)(1)(E), concerning the creation and members of the Arkansas Commission for the Newborn Umbilical Cord Blood Initiative, is amended to read as follows:

(E) The ~~Director~~ Secretary of the Department of Health or his or her designee.

SECTION 138. Arkansas Code § 20-8-506(a)(9), concerning the powers and duties of the Arkansas Commission for the Newborn Umbilical Cord Blood Initiative, is amended to read as follows:

(9) If funds are available, request the Department of Health to employ staff and enter into contracts necessary to implement this subchapter, and reimburse the Department of Health for the cost of implementing this subchapter; and

SECTION 139. Arkansas Code Title 20, Chapter 8, Subchapter 6, is repealed as the Alzheimer's Advisory Council expired on September 30, 2017.

~~Subchapter 6 — Alzheimer's Advisory Council~~

~~20-8-601. Findings.~~

~~(a) The General Assembly finds that:~~

~~(1) Alzheimer's disease is a progressive and fatal brain disease that destroys brain cells and causes problems with memory, thinking, and behavior;~~

~~(2) More than five million four hundred thousand (5,400,000) Americans now have Alzheimer's disease;~~

~~(3) Alzheimer's disease is the most common form of dementia and is the sixth leading cause of death in the United States; and~~

~~(4) No cure exists for Alzheimer's disease, but treatments for symptoms used in conjunction with appropriate services and support can improve the quality of life for those living with the disease.~~

~~(b) This section shall expire on September 30, 2017.~~

~~20-8-602. Alzheimer's Advisory Council—Creation—Membership.~~

~~(a) There is created the Alzheimer's Advisory Council, to consist of twenty-three (23) members as follows:~~

~~(1) Five (5) members appointed by the Speaker of the House of Representatives as follows:~~

~~(A) Two (2) members of the House of Representatives;~~

~~(B) One (1) member who has been diagnosed with Alzheimer's disease;~~

~~(C) One (1) member to represent the healthcare provider community; and~~

~~(D) One (1) member to represent the adult day services industry;~~

~~(2) Five (5) members appointed by the President Pro Tempore of the Senate as follows:~~

~~(A) Two (2) members of the Senate;~~

~~(B) One (1) member who is a paid caregiver of a person with Alzheimer's disease;~~

~~(C) One (1) member to represent the assisted living industry; and~~

~~(D) One (1) member who is a scientist who specializes in Alzheimer's disease research;~~

~~(3) Four (4) members appointed by the Governor as follows:~~

~~(A) One (1) member who is a physician caring for persons diagnosed with Alzheimer's disease;~~

~~(B) One (1) member to represent the nursing facility industry;~~

~~(C) One (1) member who is a person active in the state~~

~~chapter of the Alzheimer's Association; and~~

~~(D) One (1) member who is a person active in the Alzheimer's Arkansas Programs and Services; and~~

~~(4) Nine (9) members as follows:~~

~~(A) The Director of the Department of Health or his or her designee;~~

~~(B) The Director of the Department of Human Services or his or her designee;~~

~~(C) The Director of the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services or his or her designee;~~

~~(D) The Director of the Arkansas Center for Health Improvement or his or her designee;~~

~~(E) The Director of the Department of Workforce Services or his or her designee; and~~

~~(F) Four (4) members appointed by the state chapter of the Alzheimer's Association to represent Arkansas families that have been affected by Alzheimer's disease.~~

~~(b) Members of the council shall be appointed by September 1, 2011.~~

~~(c)(1) Members of the council shall serve at the pleasure of their appointing authorities.~~

~~(2) A vacancy on the council shall be filled by the original appointing authority.~~

~~(d)(1) The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each designate a cochair from among the members of the council.~~

~~(2) The cochairs shall jointly call the first meeting of the council.~~

~~(e)(1) A majority of the members of the council shall constitute a quorum.~~

~~(2) A majority vote of the members present is required for any action of the council.~~

~~(f) Council meetings shall be held in Pulaski County, Arkansas, and at other locations in the state as the council shall deem necessary.~~

~~(g) The Bureau of Legislative Research shall provide staff support to the council as necessary to assist the council in the performance of its~~

duties.

~~(h) Legislative members of the council shall be reimbursed for expenses and per diem at the same rate and from the same source as provided by law for members of the General Assembly attending meetings of the interim committees.~~

~~(i) This section shall expire on September 30, 2017.~~

~~20-8-603. Duties.~~

~~(a) The Alzheimer's Advisory Council shall:~~

~~(1) Assess the current and future impact of Alzheimer's disease and other types of dementia on the residents of the State of Arkansas;~~

~~(2) Examine the existing industries, services, and resources addressing the needs of persons living with Alzheimer's disease, their families, and caregivers; and~~

~~(3) Develop a strategy to mobilize a state response to the public health crisis created by Alzheimer's disease and other types of dementia.~~

~~(b) This section shall expire on September 30, 2017.~~

~~20-8-604. Reports.~~

~~(a) The Alzheimer's Advisory Council shall present a draft of assessments and recommendations for meeting the Alzheimer's disease needs in the State of Arkansas to the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor on or before October 1 of each even-numbered year.~~

~~(b) This section shall expire on September 30, 2017.~~

SECTION 140. Arkansas Code § 20-8-702(b)(1)(I), concerning the Palliative Care and Quality of Life Interdisciplinary Task Force, is amended to read as follows:

(I) One (1) member, in consultation with the ~~Surgeon General~~ Secretary of the Department of Health, who is a palliative care professional with expertise in the following knowledge areas that may include without limitation:

- (i) Interdisciplinary palliative care;
- (ii) Medical, nursing, social work, pharmacy, or

spiritual services;

(iii) Psychosocial issues involved in caregiving for patient and family caregivers or their advocates; and

(iv) Palliative care perspectives and challenges across multiple settings, including inpatient, outpatient, and community settings, and across pediatric, youth, adult, and geriatric populations;

SECTION 141. Arkansas Code § 20-8-702(b)(2)(B), concerning the Palliative Care and Quality of Life Interdisciplinary Task Force, is amended to read as follows:

(B) One (1) member, in consultation with the Arkansas Surgeon General, who is a palliative care professional with expertise in the following knowledge areas that may include without limitation:

(i) Interdisciplinary palliative care;

(ii) Medical, nursing, social work, pharmacy, or spiritual services;

(iii) Psychosocial issues involved in caregiving for patient and family caregivers or their advocates; and

(iv) Palliative care perspectives and challenges across multiple settings, including inpatient, outpatient, and community settings, and across pediatric, youth, adult, and geriatric populations; and

SECTION 142. Arkansas Code § 20-8-702(b)(3)(B), concerning the Palliative Care and Quality of Life Interdisciplinary Task Force, is amended to read as follows:

(B) One (1) member, in consultation with the Arkansas Surgeon General, who is a palliative care professional with expertise in the following knowledge areas that may include without limitation:

(i) Interdisciplinary palliative care;

(ii) Medical, nursing, social work, pharmacy, or spiritual services;

(iii) Psychosocial issues involved in caregiving for patient and family caregivers or their advocates; and

(iv) Palliative care perspectives and challenges across multiple settings, including inpatient, outpatient, and community settings, and across pediatric, youth, adult, and geriatric populations.

SECTION 143. Arkansas Code § 20-8-702(h), concerning the Palliative Care and Quality of Life Interdisciplinary Task Force, is amended to read as follows:

(h) The Department of Health, ~~in conjunction with the Department of Human Services,~~ shall provide staff, information, and other assistance as reasonably necessary to assist the task force in its efficient organization.

SECTION 144. Arkansas Code § 20-9-204(a), concerning the administration of the state plan for the construction of medical facilities by the Division of Health Facilities Services, is amended to read as follows:

(a) There is established in the ~~State Board of Health~~ Department of Health a Division of Health Facilities Services, which shall be administered by a full-time salaried administrator under the supervision and direction of the ~~Director~~ Secretary of the Department of Health.

SECTION 145. Arkansas Code § 20-9-205 is amended to read as follows:  
20-9-205. Powers and duties of State Board of Health.

(a) In carrying out this subchapter, the State Board of Health is empowered and directed to:

(1) Require such reports, make such inspections and investigations, and prescribe and enforce such reasonable rules and regulations as it finds necessary to effectuate the purposes of this subchapter;

(2) Provide methods of administration ~~and appoint an administrator and other personnel~~ of the Division of Health Facilities Services;

(3) Procure and pay for the temporary services of experts or consultants on a fee-for-service basis;

(4) Enter into agreements for the utilization of the facilities and services of other departments, agencies, and institutions, public and private;

(5) Accept on behalf of the state, and deposit with the Treasurer of State, any grant, gift, or contribution of funds made to assist in meeting the cost of carrying out the purposes of this subchapter, and expend such funds accordingly;

(6) Make an annual report to the ~~Governor~~ Secretary of the Department of Health on activities and expenditures made pursuant to this subchapter;

(7) Procure the services of an attorney to assist the Department of Health in any legal work involved in carrying out the duties of the department and to pay for the services on a fee-for-service or retainer basis; and

(8) Prescribe and enforce such reasonable rules and regulations as are necessary to adopt a uniform billing form for hospitals within the state and to prescribe penalties for the failure or refusal to utilize and accept such forms. However, the form must be acceptable by Medicare and its intermediaries within the state and consistent with the form adopted at the federal level by Medicare and the National Uniform Billing Committee.

(b) The department shall adopt, promulgate, and enforce such rules, regulations, and standards as may be necessary for the accomplishment of the purposes of this subchapter. The rules, regulations, and standards shall be modified, amended, or rescinded, from time to time, by the department as may be in the public interest.

SECTION 146. Arkansas Code § 20-9-207(d), concerning the federal funds for surveying and planning construction programs, is amended to read as follows:

(d) Warrants for all payments from the fund shall bear the signature of the ~~Director~~ Secretary of the Department of Health or his or her agent.

SECTION 147. Arkansas Code § 20-9-211(c), concerning the federal funds for surveying and planning construction programs, is amended to read as follows:

(c) Warrants for all payments from the fund shall bear the signature of the ~~Director~~ Secretary of the Department of Health or his or her agent.

SECTION 148. Arkansas Code § 20-9-217(b), concerning alterations, additions, and new construction of facilities under the Division of Health Facilities Services, is amended to read as follows:

(b)(1) ~~From time to time, the Director~~ The Secretary of the Department of Health or his or her agent shall inspect each construction project

approved by the ~~Unites~~ United States Surgeon General.

(2) If the inspection so warrants, the ~~director~~ secretary or his or her agent shall certify to the United States Surgeon General that work has been performed upon the project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment of federal funds is due the applicant.

SECTION 149. Arkansas Code § 20-9-1003(b), concerning the creation of the Acute Stroke Care Task Force, is amended to read as follows:

- (b) The ~~Director~~ Secretary of the Department of Health shall appoint:
- (1) One (1) member to represent the Department of Health;
  - (2) One (1) member to represent the American Heart Association and the American Stroke Association;
  - (3) One (1) member to represent the Arkansas Minority Health Commission;
  - (4) One (1) member to represent the Arkansas Hospital Association, Inc.;
  - (5) One (1) member to represent the Arkansas Foundation for Medical Care, Inc.;
  - (6) One (1) member to represent the Fay W. Boozman College of Public Health of the University of Arkansas for Medical Sciences;
  - (7) One (1) member to represent the Division of Medical Services within the Department of Human Services;
  - (8) One (1) member to represent emergency medical services;
  - (9) One (1) member to represent the Arkansas Medical Society, Inc.;
  - (10) One (1) member to represent the medical insurance industry;
  - (11) One (1) member to represent the community at large; and
  - (12) One (1) member to represent the Arkansas Medical, Dental, and Pharmaceutical Association, Inc.

SECTION 150. Arkansas Code § 20-9-1003(d), concerning the creation of the Acute Stroke Care Task Force, is amended to read as follows:

(d) If a vacancy occurs, the ~~director~~ secretary shall appoint a person who represents the same constituency as the member being replaced.

SECTION 151. Arkansas Code § 20-9-1102(b), concerning the creation of the Cervical Cancer Task Force, is amended to read as follows:

- (b) The ~~Director~~ Secretary of the Department of Health shall appoint:
- (1) One (1) member to represent the Department of Health;
  - (2) One (1) member to represent the American Cancer Society;
  - (3) One (1) member to represent the Arkansas Minority Health Commission;
  - (4) One (1) member to represent the Arkansas Hospital Association, Inc.;
  - (5) One (1) member to represent the Arkansas Foundation for Medical Care, Inc.;
  - (6) One (1) member to represent the Fay W. Boozman College of Public Health of the University of Arkansas for Medical Sciences;
  - (7) One (1) member to represent the Division of Medical Services of the Department of Human Services;
  - (8) One (1) member to represent primary care physicians;
  - (9) One (1) member to represent the Arkansas Medical Society, Inc.;
  - (10) One (1) member to represent the medical insurance industry;
  - (11) One (1) member to represent the community at large; and
  - (12) One (1) member to represent the Arkansas Medical, Dental, and Pharmaceutical Association, Inc..

SECTION 152. Arkansas Code § 20-9-1102(d), concerning the creation of the Cervical Cancer Task Force, is amended to read as follows:

- (d) If a vacancy occurs, the ~~director~~ secretary shall appoint a person who represents the same constituency as the member being replaced.

SECTION 153. Arkansas Code § 20-9-1204(a), concerning the Advisory Committee on Healthcare Acquired Infections, is amended to read as follows:

- (a) The ~~Director~~ Secretary of the Department of Health shall appoint an Advisory Committee on Healthcare Acquired Infections, including without limitation representatives of:

- (1) Public and private hospitals, including representatives of hospitals with fewer than fifty (50) beds and representatives of hospitals with more than fifty (50) beds;

- (2) Outpatient surgery centers;
- (3) Direct-care nursing staff;
- (4) Physicians;
- (5) Infection-control professionals with expertise in healthcare-associated infections;
- (6) Academic researchers; and
- (7) At least one (1) representative of a consumer organization.

SECTION 154. Arkansas Code § 20-9-1402(a), concerning the establishment of the shaken baby syndrome education program, is amended to read as follows:

(a) The ~~Director~~ Secretary of the Department of Health shall establish the shaken baby syndrome education program by:

(1) Not later than one (1) year after August 16, 2013, developing educational materials that present readily comprehensible information for new parents on shaken baby syndrome; and

(2) Making available on the Department of Health website in an easily accessible format the educational materials developed under subdivision (a)(1) of this section.

SECTION 155. Arkansas Code § 20-9-1402(c)(1), concerning the establishment of the shaken baby syndrome education program, is amended to read as follows:

(c)(1) Annually beginning on or before January 1, 2014, the ~~director~~ secretary shall assess the effectiveness of the shaken baby syndrome education program.

SECTION 156. Arkansas Code § 20-13-206(f), concerning the proceedings of the Emergency Medical Services Advisory Council, is amended to read as follows:

(f)(1) The council shall report in writing to the ~~Governor~~ Secretary of the Department of Health on or about July 31 of each year.

(2) The report shall contain a summary of the proceedings of the council during the preceding fiscal year, a detailed and itemized statement of all revenue and of all expenditures made by or in behalf of the council, other information deemed necessary or useful, and any additional information

which may be requested by the ~~Governor~~ secretary.

SECTION 157. Arkansas Code § 20-13-503(4), concerning the definition of "director" under the statewide emergency poison control-drug information-toxicological laboratory services program, is amended to read as follows:

(4) "~~Director~~ Secretary" means the ~~Director~~ Secretary of the Department of Health;

SECTION 158. Arkansas Code § 20-13-505 is amended to read as follows:  
20-13-505. Authority of ~~director~~ secretary.

(a) The ~~Director~~ Secretary of the Department of Health may:

(1) Employ any coordination measures necessary to effectuate the purposes of this subchapter within and among the responsible components;

(2) Engage in any educational program or effort undertaken in partnership with county or municipal governmental agencies or other groups if, in his or her judgment, such activity would effectuate the purposes of this subchapter;

(3) Authorize any component within the system to employ experts and consultants and compensate those individuals at rates determined by the ~~director~~ secretary in consultation with component representatives of the University of Arkansas for Medical Sciences; and

(4) Engage in programs of experimental or demonstration research.

(b) Additionally, the ~~director~~ secretary may accept and administer loans, grants, or other funds and gifts, conditional or otherwise, from the United States Government and any other public or private sources. In all such transactions, the PC-DI-TL system shall remain unitary, and the ~~director~~ secretary shall allow no function which might require the separation of the components.

(c) The ~~director~~ secretary shall have full authority, in consultation with the two (2) University of Arkansas for Medical Sciences components of the PC-DI-TL system, to formulate, promulgate, adopt, amend, and enforce rules, regulations, and regulatory standards necessary to effectuate this subchapter in a way consistent with § 10-3-309.

SECTION 159. Arkansas Code § 20-13-506(a)(2), concerning the creation

of the advisory committee for the PC-DI-TL program, is amended to read as follows:

(2) The committee shall consist of an uneven number of persons, not to exceed seven (7), appointed by the ~~Director~~ Secretary of the Department of Health.

SECTION 160. Arkansas Code § 20-13-506(b)(3), concerning the creation of the advisory committee for the PC-DI-TL program, is amended to read as follows:

(3) In the selection of members, the ~~director~~ secretary shall appoint only those persons with professional expertise in poison control, drug information, toxicological laboratory services, or other health and safety fields.

SECTION 161. Arkansas Code § 20-13-506(d), concerning the creation of the advisory committee for the PC-DI-TL program, is amended to read as follows:

(d) Any reasonable administrative and technical assistance required by the committee shall be provided by the ~~director~~ secretary in consultation with the UAMS-Pharmacy and UAMS-Library permanent components of the PC-DI-TL program.

SECTION 162. Arkansas Code § 20-13-508(a), concerning the designation of personnel within the PC-DI-TL services system, is amended to read as follows:

(a) Each permanent component within the PC-DI-TL services system shall designate those persons within the component department who shall have responsibility for implementing and developing this toxicology services system, and each shall provide written notice of the designations to the ~~Director~~ Secretary of the Department of Health.

SECTION 163. Arkansas Code § 20-13-511 is amended to read as follows:

20-13-511. Recordkeeping and reporting.

Each of the University of Arkansas for Medical Sciences components, the Arkansas Poison and Drug Information Center, the Library of the University of Arkansas for Medical Sciences for nonemergency poison and drug information,

and the Chemistry Branch of the Public Health Laboratory of the Department of Health, shall make available to the ~~Director~~ Secretary of the Department of Health, in such manner, form, or at such times as he or she shall require, copies of records and reports regarding all activities authorized and developed pursuant to this subchapter.

SECTION 164. Arkansas Code § 20-13-807(d), concerning the creation of the Trauma Advisory Council, is amended to read as follows:

(d) The ~~Director~~ Secretary of the Department of Health or his or her designee shall serve as a nonvoting ex officio member of the Trauma Advisory Council.

SECTION 165. Arkansas Code § 20-13-820 is amended to read as follows:  
20-13-820. Reports to the General Assembly.

The ~~Director~~ Secretary of the Department of Health shall provide a report to the Senate Committee on Public Health, Welfare, and Labor and the House Committee on Public Health, Welfare, and Labor on or before April 1 and October 1 of each year through 2011. After 2011, the ~~director~~ secretary shall provide an annual report to the Senate Committee on Public Health, Welfare, and Labor and the House Committee on Public Health, Welfare, and Labor on or before October 1.

SECTION 166. Arkansas Code § 20-13-1106(a), concerning disqualifying offenses for certification or recertification and waivers, is amended to read as follows:

(a) Except as provided in subdivision (e)(1) of this section, the Division of Emergency Medical Services shall issue a determination that a person is disqualified from certification or recertification if the person has been found guilty of or has pleaded guilty or nolo contendere to any of the offenses listed in subsection (b) of this section, including offenses for which the record has been expunged. However, the Division of shall forward a request for a waiver to the ~~Director~~ Secretary of the Department of Health on all applicants who have been convicted of the crimes listed in subsection (b) of this section if five (5) years have passed since the conviction, if five (5) years have passed since release from custodial confinement, or if the applicants are currently certified emergency medical technicians, before

making the final determination on certification or recertification. These individuals will not be suspended before the ~~director's~~ secretary's making the final determination.

SECTION 167. Arkansas Code § 20-13-1106(d)(2), concerning disqualifying offenses for certification or recertification and waivers, is amended to read as follows:

(2) The written request for waiver shall be mailed to the ~~director~~ secretary within fifteen (15) calendar days after receipt of the determination by the Department of Health.

SECTION 168. Arkansas Code § 20-13-1201(3), concerning the definition of "director" under the vaccination program for first responders, is amended to read as follows:

(3) "~~Director~~ Secretary" means the ~~Director~~ Secretary of the Department of Health;

SECTION 169. Arkansas Code § 20-14-804(b), concerning the Advisory Board for Interpreters between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf, is amended to read as follows:

(b) The board shall consist of seven (7) members appointed by the ~~Director~~ Secretary of the Department of Health as follows:

(1) Four (4) licensed qualified interpreters appointed from a list of eight (8) submitted by the Arkansas Registry of Interpreters for the Deaf in conjunction with the Arkansas Association for the Deaf;

(2) Two (2) members appointed from a list of four (4) submitted by the Arkansas Association for the Deaf, Inc. in conjunction with the Arkansas Registry of Interpreters for the Deaf who are deaf persons, hard of hearing persons, or oral deaf persons not licensed under this subchapter; and

(3) One (1) member appointed from a list of two (2) submitted by the Arkansas Association for the Deaf in conjunction with the Arkansas Registry of Interpreters for the Deaf, Inc. who are neither individuals who are deaf, deafblind, hard of hearing, or oral deaf and who are not licensed under this subchapter.

SECTION 170. Arkansas Code § 20-14-804(e), concerning the Advisory Board for Interpreters between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf, is amended to read as follows:

(e) If a vacancy occurs on the board, the ~~director~~ secretary shall appoint to complete the term vacated a person who possesses the same qualifications as those required for the position to which he or she is appointed.

SECTION 171. Arkansas Code § 20-14-805(b), concerning the powers and duties of the Advisory Board for Interpreters between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf, is amended to read as follows:

(b) The Advisory Board for Interpreters between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf shall review and recommend to the ~~Director~~ Secretary of the Department of Health:

(1) Acceptance or rejection of applications for licensure and renewal of licenses for interpreters for the deaf, deafblind, hard of hearing, and oral deaf;

(2) Criteria for issuance and renewal of licenses for licensed qualified interpreters;

(3) Criteria for issuance and continuance of provisional licenses;

(4) Fees for licensure and licensure renewal under this subchapter;

(5) Suspension or revocation of licenses under this subchapter;

(6) Procedures for receiving and investigating complaints under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.;

(7) Rules to ensure that an interpreting agency provides only licensed qualified interpreters for services under this subchapter;

(8) Rules regarding conflicts of interest regarding members of the Advisory Board for Interpreters between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf;

(9)(A) A code of professional conduct.

(B) The code of professional conduct shall provide, at a minimum, that:

(i) A licensed qualified interpreter shall make a true interpretation in an understandable manner to an individual who is deaf, deafblind, hard of hearing, or oral deaf for whom the licensed qualified interpreter is appointed and that the licensed qualified interpreter will interpret accurately the statements of the individual who is deaf or hard of hearing who desires that his or her statements be made in English to the best of the licensed qualified interpreter's skill and judgment; and

(ii) All information that a licensed qualified interpreter gathers, learns from, or relays to an individual who is deaf, deafblind, hard of hearing, or oral deaf during an administrative, civil, or criminal proceeding shall remain confidential and privileged unless the individual who is deaf, deafblind, hard of hearing, or oral deaf desires that the information be communicated to other persons; and

(10) A continuing education program for licensed qualified interpreters.

SECTION 172. Arkansas Code § 20-14-806(a), concerning the powers and duties of the Director of the Department of Health, is amended to read as follows:

(a) After consideration of the recommendation of the Advisory Board for Interpreters between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf, the ~~Director~~ Secretary of the Department of Health shall:

(1) Issue or deny a license or a renewal of license of a licensed qualified interpreter;

(2) Issue or deny a license or a renewal of a licensed provisional interpreter license;

(3) Confirm or overrule a recommendation to revoke or suspend a license for an interpreter between a hearing individual and an individual who is deaf, deafblind, hard of hearing, or oral deaf;

(4) Create and maintain a registry of licensed qualified interpreters; and

(5) Establish reasonable fees for licensure and renewal of licensure.

SECTION 173. Arkansas Code § 20-15-202 is amended to read as follows:

20-15-202. State cancer plan.

A task force consisting of public and private entities shall be established by the ~~Director~~ Secretary of the Department of Health to assist the Department of Health in developing a strategic plan for a coordinated, comprehensive, statewide network of cancer resources, services, and programs.

SECTION 174. Arkansas Code § 20-15-401(b), concerning the duty of a physician to report cases of suspected cases of Reye's syndrome diseases, is amended to read as follows:

(b) The report shall be made as promptly as possible from the time the physician first visits, examines, or prescribes for the patient, and the report shall state the name, age, sex, race, usual residence, place where the patient is to be found, the nature of the disease, the date of onset, and any additional information that the ~~Director~~ Secretary of the Department of Health may require.

SECTION 175. Arkansas Code § 20-15-602(a)(3), concerning the creation and members of the State Kidney Disease Commission, is amended to read as follows:

(3) ~~The Commissioner of the Arkansas Rehabilitation Services of the Department of Career Education~~ Secretary of the Department of Health, or his or her designee, shall be a member of the commission and shall serve as secretary and disbursing officer of funds appropriated to the commission for the treatment and cure of renal diseases.

SECTION 176. Arkansas Code § 20-15-604(a), concerning the advisory association to the State Kidney Disease Commission, is amended to read as follows:

(a) In developing rules and regulations and in determining standards for determining eligibility for financial assistance to persons suffering from chronic renal diseases who require lifesaving care and treatment for such renal diseases, the State Kidney Disease Commission shall consult with and obtain the advice of the Arkansas Association for Kidney Disease, Inc., a nonprofit corporation organized under the laws of this state. This organization is recognized as the representative body to serve as an advisory association to the commission and to the deputy director of the appropriate

division as determined by the ~~Director~~ Secretary of the Department of Health in carrying out their functions and duties under this subchapter.

SECTION 177. Arkansas Code § 20-15-605 is amended to read as follows:

20-15-605. State Kidney Disease Commission – Disbursement of funds.

(a) The ~~commissioner of the Arkansas Rehabilitation Services of the Department of Career Education~~ Secretary of the Department of Health shall be the disbursing officer of funds appropriated by the General Assembly and of other funds made available to the State Kidney Disease Commission for such purposes. These funds are to provide monetary assistance to defray the cost incurred by patients suffering from acute or chronic renal disease who are unable to meet the total cost of their care or treatment from their own resources or from third-party resources.

(b) The ~~Commissioner~~ secretary shall be governed by the policies, rules and regulations, and procedures promulgated by the commission in disbursing funds appropriated, or otherwise made available, to the commission for renal disease treatment purposes.

SECTION 178. Arkansas Code § 20-15-701 is amended to read as follows:

20-15-701. Definition.

As used in this subchapter, “active tuberculosis” means that the disease is in a communicable or infectious stage as established by chest X ray, microscopical examination of sputum, or other diagnostic procedures approved ~~jointly~~ by the ~~Director~~ Secretary of the Department of Health ~~and the medical director of either the Arkansas Tuberculosis Sanatorium or the Arkansas State Hospital.~~

SECTION 179. Arkansas Code § 20-15-709(b), concerning the discharge of a person committed, is amended to read as follows:

(b) The superintendent of the institution shall report each discharge with a full statement of reasons therefor at once to the ~~Director~~ Secretary of the Department of Health, to the county health officer of the county where the person was committed, and to the clerk of the court from which the person was committed.

SECTION 180. Arkansas Code § 20-15-1003 is amended to read as follows:

20-15-1003. Advisory committee.

(a) To assure the safety and accuracy of screening and diagnostic mammography and to promote the highest quality imaging in the most efficient setting to contain costs, radiological standards, and quality assurance programs shall be established and administered by the ~~Director~~ Secretary of the Department of Health.

(b) To assist the ~~Director~~ Secretary of the Department of Health in establishing the quality standards, there is created an advisory committee to be composed of:

(1) The Director of Mammography at the University of Arkansas for Medical Sciences, or his or her designee;

(2) The Chair of the Breast Screening Project of the Arkansas Division of the American Cancer Society, or his or her designee;

(3) A physician appointed by the Arkansas Medical Society, Inc. or his or her designee;

(4) A health physicist from the Radiation Control Section of the Department of Health, or his or her designee;

(5) A medical physicist with experience and training in mammography procedures appointed by the ~~Director~~ Secretary of the Department of Health;

(6) A registered X-ray technologist with experience and training in mammography practices and procedures appointed by the ~~Director~~ Secretary of the Department of Health; and

(7) The President of the Arkansas Chapter of the American College of Radiology, or his or her designee.

(c) The committee and the ~~Director~~ Secretary of the Department of Health shall continuously review and revise the quality standards in light of current scientific knowledge, but no less frequently than one (1) time every year.

SECTION 181. Arkansas Code § 20-15-1004(a)(1), concerning the accreditation of facilities under the federal Mammography Quality Standards Act of 1992, is amended to read as follows:

(a)(1) The ~~Director~~ Secretary of the Department of Health shall establish quality standards for accreditation of facilities wherein mammography may be conducted in accordance with the Mammography Quality

Standards Act of 1992, Pub. L. No. 102-539 (21 C.F.R. Part 900).

SECTION 182. Arkansas Code § 20-15-1502(4), concerning the definition of "director" under the laws establishing the Universal Newborn Hearing Screening, Tracking, and Intervention Advisory Board, is amended to read as follows:

(4) "~~Director~~ Secretary" means the ~~Director~~ Secretary of the Department of Health;

SECTION 183. Arkansas Code § 20-15-1903(2), concerning the definition of "high risk" under the Colorectal Cancer Prevention, Early Detection, and Treatment Act, is amended to read as follows:

(2) Any additional or expanded definition of "persons at high risk for colorectal cancer" as recognized by medical science and determined by the ~~Director~~ Secretary of the Department of Health in consultation with the University of Arkansas for Medical Sciences.

SECTION 184. Arkansas Code § 20-15-1906 is amended to read as follows:  
20-15-1906. Colorectal Cancer Prevention, Early Detection, and Treatment Advisory Committee.

(a) There is created a Colorectal Cancer Prevention, Early Detection, and Treatment Advisory Committee to advise the ~~Director~~ Secretary of the Department of Health on matters of concern under this subchapter.

(b) The ~~director~~ secretary shall appoint:

- (1) One (1) member to represent the Department of Health;
- (2) One (1) member to represent the target population of this subchapter;
- (3) One (1) member who specializes in primary care or gastrointestinal medicine to represent the Arkansas Medical Society, Inc.;
- (4) One (1) member who specializes in primary care or gastrointestinal medicine to represent the Arkansas Medical, Dental and Pharmaceutical Association, Inc.;
- (5) One (1) member who is a surgical oncologist physician;
- (6) One (1) member who is a radiation oncologist physician;
- (7) One (1) member to represent the Arkansas Nurses Association;
- (8) One (1) member who is a behavioral health scientist;

- (9) One (1) member who is a medical oncologist physician;
- (10) One (1) member to represent the area health education centers;
- (11) One (1) member who is a colorectal cancer survivor;
- (12) One (1) member to represent the American Cancer Society;
- (13) One (1) member to represent the Community Health Centers of Arkansas; and
- (14) One (1) member selected from the Arkansas Minority Health Commission.

(c) The ~~director~~ secretary shall ensure that the membership is representative of the four (4) congressional districts.

(d) Terms of committee members shall be three (3) years except for the initial members whose terms shall be determined by lot so as to stagger terms to equalize as nearly as possible the number of members to be appointed each year.

(e) If a vacancy occurs, the ~~director~~ secretary shall appoint a person who represents the same constituency as the member being replaced.

(f) The committee shall elect one (1) of its members to act as chair for a term of one (1) year.

(g) A majority of the members shall constitute a quorum for the transaction of business.

(h) The committee shall meet at least quarterly to study developments in programs created under this subchapter and to assist the ~~director~~ secretary in improving existing programs and developing new programs.

(i) The department shall provide office space and staff for the committee.

(j) Members of the committee shall serve without pay but may receive expense reimbursement in accordance with § 25-16-902 if funds are available.

SECTION 185. Arkansas Code § 20-16-101 is repealed.

~~20-16-101. Authorization to continue the Mississippi County Midwife Program.~~

~~The Director of the Department of Health may continue the Mississippi County Midwife Program utilizing available state and federal funding.~~

SECTION 186. Arkansas Code § 20-16-203(c)(3), concerning the advisory

commission to the Arkansas Reproductive Health Monitoring System, is amended to read as follows:

(3) The ~~Director~~ Secretary of the Department of Health;

SECTION 187. Arkansas Code § 20-16-507(b), concerning the requirement of testing pregnant women, is amended to read as follows:

(b) For the purpose of this section, a standard serological test shall be a test for syphilis, human immunodeficiency virus, and Hepatitis B, approved or authorized by the Centers for Disease Control and Prevention, and approved by the ~~Director~~ Secretary of the Department of Health and shall be made at the division's laboratory or at another laboratory approved to make such tests.

SECTION 188. Arkansas Code § 20-16-1110(c), concerning civil remedies to be brought against a person who performed an abortion, is amended to read as follows:

(c)(1) If the Department of Health fails to issue the public report required under § 20-16-1108, any group of ten (10) or more citizens of this state may seek an injunction in a court of competent jurisdiction against the ~~Director~~ Secretary of the Department of Health requiring that a complete report be issued within a period established by the court.

(2) Failure of the ~~director~~ secretary to obey an injunction issued under subdivision (c)(1) of this section is punishable as civil contempt.

SECTION 189. Arkansas Code § 20-18-203(a), concerning the State Registrar of Vital Records, is amended to read as follows:

(a) The ~~Director~~ Secretary of the Department of Health shall appoint the State Registrar of Vital Records.

SECTION 190. Arkansas Code § 20-19-309(a), concerning the area of quarantine, is amended to read as follows:

(a)(1) The ~~Director~~ Secretary of the Department of Health shall place certain areas under a rabies quarantine upon request of proper local officials.

(2) In serious situations, the ~~director~~ secretary may place the

area under quarantine without waiting for a local request.

SECTION 191. Arkansas Code § 20-19-311 is amended to read as follows:

20-19-311. Administration by ~~Director~~ Secretary of the Department of Health.

The ~~Director~~ Secretary of the Department of Health or his or her official representative shall have the responsibility for carrying out the provisions of this subchapter.

SECTION 192. Arkansas Code § 20-19-406(c)(3), concerning vaccination of wolves and wolf-dog hybrids, is amended to read as follows:

(3) Upon written order by the ~~Director~~ Secretary of the Department of Health or a specifically designated representative, any biting animal determined to be at significant risk for the transmission of rabies shall be humanely killed and the brain tissue submitted for testing; and

SECTION 193. Arkansas Code Title 20, Chapter 20, Subchapter 3, is repealed.

~~Subchapter 3 — Pesticides and Chemicals Safe for Children Hand-Harvesting  
Crops~~

~~20-20-301. Approved chemicals — Safe reentry times.~~

~~(a) The Director of the Department of Health may establish by regulation a list of approved pesticides and other agricultural chemicals which are safe for the occupational exposure of children twelve (12) and thirteen (13) years of age employed in hand-harvesting short-season crops.~~

~~(b) The director also may establish by regulation safe reentry times for children twelve (12) and thirteen (13) years of age so employed.~~

~~20-20-302. Assessment fees.~~

~~(a) Any employer, individual, corporation, group, or association which proposes the approval of any pesticide or other agricultural chemical for inclusion on this list shall pay the Department of Health a fee for conducting any necessary study or risk assessment.~~

~~(b) The fee shall be established by regulation of the department and shall be deposited into the State Treasury to the Public Health Fund Account.~~

~~20-20-303. Hand harvesting by children.~~

~~Children twelve (12) years of age and older may be employed to hand-harvest short-season crops, provided that:~~

- ~~(1) School is not in session;~~
- ~~(2) Written parental consent has been obtained by the employer;~~
- ~~(3) An employment certificate has been obtained from the Director of the Department of Labor pursuant to § 11-6-109;~~
- ~~(4) No pesticide or other agricultural chemical has been used on the crop except those approved by the Department of Health pursuant to § 20-20-301; and~~
- ~~(5) Any pesticide or other agricultural chemical used on the crop has been applied and utilized in compliance with the worker protection standards established by the United States Environmental Protection Agency and the department.~~

SECTION 194. Arkansas Code § 20-21-203(18), concerning the definition of "Director" under the laws governing ionizing radiation, is amended to read as follows:

(18) "~~Director~~ Secretary" means the ~~Director~~ Secretary of the Department of Health;

SECTION 195. Arkansas Code § 20-21-206(b), concerning employees of the State Radiation Control Agency, is amended to read as follows:

(b) The ~~Director~~ Secretary of the Department of Health shall designate an individual to perform the functions vested in the agency pursuant to this subchapter.

SECTION 196. Arkansas Code § 20-21-207(10)(A), concerning the powers and duties of the State Radiation Control Agency, is amended to read as follows:

(10)(A) Allow the ~~Director~~ Secretary of the Department of Health or his or her authorized representative to require the posting of a bond by licensees to provide funds in the event of abandonment, default, or other inability of the licensee to meet the requirements of the agency. The agency may establish bonding requirements by classes of licensee and by range of

monetary amounts. In establishing the requirements, the agency shall give consideration to the potential for contamination, injury, cost of disposal, and reclamation of the property.

SECTION 197. Arkansas Code § 20-21-207(10)(C) and (D), concerning the powers and duties of the State Radiation Control Agency, are amended to read as follows:

(C) A bond deemed acceptable in Arkansas shall be a bond issued by a fidelity or surety company authorized to do business in Arkansas, a personal bond secured by such collateral as the ~~director~~ secretary deems satisfactory, a cash bond, or a letter of credit.

(D)(i) All state, local, or other governmental agencies or subdivisions shall be exempt from the requirements of this subdivision (10).

(ii) The ~~director~~ secretary may exempt classes of licensees from the requirements of this section when a finding is made that the exemption will not result in a significant risk to the public health and safety; and

SECTION 198. Arkansas Code § 20-21-207(11)(A), concerning the powers and duties of the State Radiation Control Agency, is amended to read as follows:

(11)(A) Allow the ~~director~~ secretary or his or her authorized representative to require a licensee to deposit funds on an annual, semiannual, or quarterly basis into a trust fund established for the exclusive purpose set out in this subdivision (11). The Perpetual Maintenance Fund shall be defined so as to embrace each of the following:

(i) A source of revenue to provide for perpetual care and surveillance of a radioactive waste concentration, storage, and disposal site as described in subdivision (9) of this section or a source of revenue to provide for perpetual care and surveillance of a formerly licensed activity still containing or having associated with it radioactive material, the activity having ceased to operate by reason of default, abandonment, or decommissioning;

(ii) The Perpetual Maintenance Fund shall have two (2) inputs:

(a) Fees which are contributed by the lessee

or licensee resulting from the operation of concentrating, storing, or disposing of radioactive material as set forth in subdivision (9) of this section; and

(b) Moneys accrued as interest on a trust fund established by a licensee. These funds shall be automatically transferred to the Perpetual Maintenance Fund in the event of default, abandonment, or decommissioning;

(iii) Moneys in the Perpetual Maintenance Fund shall be appropriated to the agency for use in a way consonant with this subchapter, including such items as perpetual care, maintenance, and surveillance; and

(iv) All licensee contributions to the Perpetual Maintenance Fund shall be payable to the ~~director~~ secretary and deposited by the Treasurer of State.

SECTION 199. Arkansas Code § 20-21-207(11)(F), concerning the powers and duties of the State Radiation Control Agency, is amended to read as follows:

(F) If a person licensed by any governmental agency other than the State of Arkansas desires to transfer a site to the state for the purpose of administering or providing perpetual care, a lump-sum deposit shall be made to a trust fund. The amount of the deposit shall be determined by the ~~director~~ secretary, taking into consideration the factors stated in subdivision (11)(D) of this section.

SECTION 200. Arkansas Code § 20-21-306(b), concerning the State Electronic Product Control Agency, is amended to read as follows:

(b) The ~~Director~~ Secretary of the Department of Health shall be Director of the State Electronic Product Control Agency and shall perform the functions vested in the agency pursuant to this subchapter.

SECTION 201. Arkansas Code § 20-21-403(a)(2), concerning the operating funds of the Nuclear Planning and Response Program, is amended to read as follows:

(2) The ~~Director~~ Secretary of the Department of Health shall certify the amount to each utility in the state which maintains and operates

one (1) or more nuclear generating facilities in the state. The Chief Fiscal Officer of the State shall then notify each utility of the portion of the amount to be paid by each utility.

SECTION 202. Arkansas Code § 20-21-404(b) and (c), concerning the fees from utilities operating nuclear generating facilities, are amended to read as follows:

(b) The fees so levied against each utility shall be remitted by the utility to the ~~Director~~ Secretary of the Department of Health within thirty (30) days after the amount thereof is certified by the Chief Fiscal Officer of the State.

(c) If any utility shall fail or refuse to pay the fees as provided in this section within the time prescribed, the ~~director~~ secretary shall add to the fee a penalty of twenty-five percent (25%) thereof and shall certify the amount of the delinquent fee and penalty to the Attorney General for collection.

SECTION 203. Arkansas Code § 20-21-501(3), concerning the definition of "Division of Health" under the Nuclear Planning and Response Program of the Division of Radiation Control and Emergency Management of the Department of Health, is amended to read as follows:

(3) "Division of Health" means the Nuclear Planning and Response Program of the Division of Radiation Control and Emergency Management of the Department of Health, with the ~~Director~~ Secretary of the Department of Health having the ultimate authority over any activities conducted by that program, division, and department;

SECTION 204. Arkansas Code § 20-27-209 is repealed.

~~20-27-209. Sterilization of renovated and remade bedding required.~~

~~(a) No person shall remake or renovate any article of bedding unless all the material to be used in the remade or renovated bedding shall first be thoroughly sterilized and disinfected by a process approved by the Director of the Department of Health.~~

~~(b) Any person who receives bedding to be renovated shall attach to each article of bedding, at the time of its receipt, a tag upon which has been legibly written the name and address of the owner of the bedding and the~~

~~date it was received for renovation.~~

~~(c) No person shall use in the making of bedding any previously used material unless the material has been sterilized and disinfected by a process approved by the director.~~

SECTION 205. Arkansas Code § 20-27-209(c), concerning the sterilization of renovated and remade bedding, is amended to read as follows:

(c) No person shall use in the making of bedding any previously used material unless the material has been sterilized and disinfected by a process approved by the ~~director~~ secretary.

SECTION 206. Arkansas Code § 20-27-602(3), concerning the definition of "Director" under the laws regulating lead poisoning prevention, is amended to read as follows:

(3) "~~Director~~ Secretary" means the ~~Director~~ Secretary of the Department of Health or his or her authorized delegate or representative;

SECTION 207. Arkansas Code § 20-27-605(b), concerning the Director of the Lead Poisoning Prevention and Control Agency, is amended to read as follows:

(b) The ~~Director~~ Secretary of the Department of Health shall perform the functions vested in the department pursuant to this subchapter.

SECTION 208. Arkansas Code § 20-27-606(a), concerning the requirement for a search warrant required for inspection, is amended to read as follows:

(a) For reasonable cause, the ~~Director~~ Secretary of the Department of Health may obtain from any court of record in the county where a dwelling or other property is located a search warrant permitting the ~~director's~~ secretary's designee to enter at all reasonable times upon any private or public property, including dwellings or dwelling units. Entry may be made for the purpose of determining whether or not a lead poisoning hazard or potential hazard exists, including the collection of samples of laboratory analyses, and to determine abatement compliance. However, entry onto or into any property under the jurisdiction and control of the United States Government shall be effected only with the concurrence of the United States Government or its designated representative.

SECTION 209. Arkansas Code § 20-27-607(a), concerning the notification of a lead hazard, is amended to read as follows:

(a) After completion of an inspection or investigation, the ~~Director~~ Secretary of the Department of Health or his or her designee shall notify the owner and tenant of his or her findings and, in the event any lead hazard was found, the notification shall contain instructions pertaining to abatement as prescribed by this subchapter and rules and regulations promulgated pursuant to this subchapter.

SECTION 210. Arkansas Code § 20-27-2701(3), concerning the definition of "director" under the laws regarding the unlawful sale of bedding, is amended to read as follows:

(3) "~~Director~~ Secretary" means the ~~Director~~ Secretary of the Department of Health;

SECTION 211. Arkansas Code § 20-27-2702(d), concerning the labeling of bedding for sale, is amended to read as follows:

(d) The ~~Director~~ Secretary of the Department of Health shall approve the form and size of labels, the fabric of which the labels are made, and the wording and statements on labels provided for under this section.

SECTION 212. Arkansas Code § 20-47-510(d)(1)(A), concerning the coordination and oversight of annual reports of the Comprehensive Children's Behavioral Health System of Care Plan, is amended to read as follows:

(A) The ~~Commissioner~~ Secretary of Education, the Secretary of Health, ~~and the Director of the Department of Health~~, and the ~~Director~~ Secretary of the Department of Human Services; and

SECTION 213. Arkansas Code § 20-47-510(e)(1)(A), concerning the coordination and oversight of annual reports of the Comprehensive Children's Behavioral Health System of Care Plan, is amended to read as follows:

(A) The commissioner, the ~~Director~~ Secretary of the Department of Health, and the ~~Director~~ Secretary of the Department of Human Services; and

SECTION 214. Arkansas Code § 20-57-203 is amended to read as follows:  
20-57-203. ~~Director~~ Secretary of the Department of Health – Powers and duties.

The ~~Director~~ Secretary of the Department of Health shall have:

- (1) Power and authority to prevent the proliferation of infections, contagious, and communicable diseases resulting from unsanitary food service operations; and
- (2) Direction and control over all sanitary and quarantine measures for dealing with all such diseases within the state and to suppress the diseases and prevent their spread.

SECTION 215. Arkansas Code § 20-57-207(a) and (b), concerning nonliability for the prevention of choking, are amended to read as follows:

(a) The ~~Director~~ Secretary of the Department of Health shall study and approve instructions detailing first aid techniques and a poster diagramming first aid techniques designed and intended for use by a person without medical training in removing food which has become lodged in the throat of a choking victim.

(b) The ~~director~~ secretary shall publish the approved instructions and poster and make them available to each food service operation in the state.

SECTION 216. Arkansas Code § 20-57-207(g), concerning nonliability for the prevention of choking, is amended to read as follows:

(g) No food service operation, employee of a food service operation, person connected with its management, nor any other person shall be liable in any civil action for damages for personal injury or wrongful death for any acts or omissions of any individual removing, attempting to remove, or assisting in the removal of food lodged in the throat of a choking victim in accordance with instructions supplied by the ~~director~~ secretary.

SECTION 217. Arkansas Code § 20-57-304 is amended to read as follows:  
20-57-304. Penalty.

Any person who violates any of the provisions of this subchapter, or the orders, rules, or regulations promulgated by the ~~Director~~ Secretary of the Department of Health under authority thereof, shall upon conviction be subject to a fine for each and every offense in a sum not exceeding five

hundred dollars (\$500) or to imprisonment for not more than six (6) months, or both fine and imprisonment.

SECTION 218. Arkansas Code § 20-57-305(b), concerning the powers and duties of the State Board of Health and the Director of the Department of Health, is amended to read as follows:

(b) All orders, rules, and regulations adopted by the board pursuant to this subchapter shall be published in the manner prescribed in subsection (c) of this section and, within the limits specified by this subchapter, shall become effective upon such date as the ~~Director~~ Secretary of the Department of Health shall fix.

SECTION 219. Arkansas Code § 20-57-305(d)(1), concerning the powers and duties of the State Board of Health and the Director of the Department of Health, is amended to read as follows:

(d)(1) The ~~director~~ secretary is authorized to collect samples for analysis and to conduct examinations and investigations for the purposes of this subchapter through any officers or employees under his or her supervision.

SECTION 220. Arkansas Code § 20-57-306(d), concerning vitamins and other ingredients of flour, is amended to read as follows:

(d) The ~~Director~~ Secretary of the Department of Health is empowered with the authority and directed to change, or add to, the specifications for ingredients and the amounts thereof required to conform to the federal definition of enriched flour when promulgated or as may from time to time be amended.

SECTION 221. Arkansas Code § 20-57-306(f)(1), concerning vitamins and other ingredients of flour, is amended to read as follows:

(f)(1) The terms of this section shall not apply to flour sold to distributors, bakers, or other processors if the purchaser furnishes to the seller a certificate in such form as the ~~director~~ secretary shall by regulation prescribe, certifying that the flour will be:

- (A) Resold to a distributor, baker, or other processor;
- (B) Used in the manufacture, mixing, or compounding of

flour, white bread, or rolls enriched to meet the requirements of this subchapter; or

(C) Used in the manufacture of products other than flour, white bread, or rolls.

SECTION 222. Arkansas Code § 20-59-201(5), concerning the definition of miscellaneous products under the laws regulating milk and dairy products, is amended to read as follows:

(5) Miscellaneous Products. Varieties, types, and kinds of milk and dairy products which are not defined in this section shall be manufactured and marketed under the standards of composition promulgated by the Bureau of Standards of the United States Food and Drug Administration, or may be promulgated by the ~~Director~~ Secretary of the Department of Health under authority vested in him or her to make and promulgate rules and regulations;

SECTION 223. Arkansas Code § 20-59-201(10)(F), concerning the definition of "cream or milk grader" under the laws regulating milk and dairy products, is amended to read as follows:

(F) "Cream or milk grader" shall be considered to mean any person who shall have passed a satisfactory examination as to his or her qualifications and to have actually demonstrated his or her ability before the ~~director~~ secretary or his or her assistants, to determine the quality of cream or milk purchased for the purpose of manufacture into dairy products; and

SECTION 224. Arkansas Code § 20-59-202(1) and (2), concerning penalties under the laws governing milk and dairy products, is amended to read as follows:

(1) Hinder, obstruct, or in any way interfere with the ~~Director~~ Secretary of the Department of Health or his or her deputies while discharging the duties of inspection;

(2) Obstruct or hinder in any way the ~~director~~ secretary from carrying out the full meaning and intent of this subchapter;

SECTION 225. Arkansas Code § 20-59-205(a), concerning the right of

review of the State Board of Health regarding milk and dairy products, is amended to read as follows:

(a) It shall be the duty of the State Board of Health, and it is authorized and empowered through its constituted officers and agents as set out in this section, to perform the following acts. However, any aggrieved party shall have the right to apply to the circuit court in the county of his or her residence for a review of any summary action on the part of the board or its agents and for this purpose service of process upon the ~~Director~~ Secretary of the Department of Health at any place in this state shall constitute valid service in the application for review:

(1) Inspection of Plants. To inspect or cause to be inspected, as often as may be deemed practicable, all dairy products plants or any other places where dairy products are produced, manufactured, frozen, processed, kept, handled, stored, or sold within this state;

(2) Production and Sale Prohibited. To prohibit the production and sale of unclean, adulterated, unwholesome milk, cream, or other dairy products;

(3) Condemnation for Food. To condemn for food purposes by denaturing with harmless coloring all unclean or unwholesome dairy products wherever they may find those products;

(4) Samples. To take samples anywhere of any dairy products or imitation thereof and cause the samples to be analyzed or satisfactorily tested according to the method of the AOAC International in force at the time. The analyses or tests shall be preserved and recorded;

(5) Right of Entry. To enter during business hours all dairy products plants or other places where dairy products are manufactured, produced, frozen, processed, stored, sold, or kept for sale or transportation in order to perform their official duties;

(6) Price of Cream or Butterfat.

(A) To require that no person, firm, corporation, or association shall buy or offer to buy cream or butterfat for butter-making purposes without displaying the price to be paid for cream or butterfat according to grade of cream.

(B) The price shall be posted and displayed continuously during the business hours of the person, firm, or corporation buying cream, and the price, according to grade of cream, shall include all premiums and

bonuses, if any, in letters and figures not less than two inches (2") in height in such manner or place so that the price posted shall be plainly visible from the street in front of the building or place in which the purchase is made.

(C) It shall be deemed a violation hereof if there is:

(i) A failure on the part of the person, firm, corporation, or association, its agent, servant, or employee, to post the prices; or

(ii) A buying of cream or butterfat at a price different from that which is posted.

(D) All persons, firms, corporations, or associations, their agents, servants, or employees shall keep a record in their respective cream stations of the time and date on or at which changes in prices are made and posted.

(E) However, nothing in this subdivision (6) shall be construed as to forbid or prevent:

(i) Incorporated cooperative associations from paying annually earned patronage dividends according to the statutes and decrees under which they are organized; or

(ii) Corporations paying annual dividends according to the statutes and decrees under which they are incorporated;

(7) Subpoenas.

(A) To issue subpoenas requiring the appearance of witnesses and the production of books, papers, reports, and records before the board or the ~~Director~~ Secretary of the Department of Health, in all cases where sufficient evidence of violation of this subchapter is filed with the ~~Director of the Department of Health~~ Secretary of the Department of Health. The ~~Director of the Department of Health~~ Secretary of the Department of Health shall have power to administer oaths with like effect as is done in courts of law in this state.

(B) It shall be the duty of any circuit court or the judge thereof upon application to issue an attachment for the witnesses and compel their attendance before the board or the ~~Director~~ Secretary of the Department of Health, to give testimony upon such matters as shall be lawfully required by the official. The court or judge shall have power, in cases of refusal, to punish for contempt, as in other cases of refusal to obey the orders and

process of the court;

(8) Tests.

(A) To test milk, cream, and other dairy products for the purpose of ascertaining the percentages of butterfat or other ingredients contained therein.

(B) If the ~~Director~~ Secretary of the Department of Health or any of his or her deputies shall find upon testing that there is a variance of more than one percent (1%) of butterfat in a cream test or two-tenths of one percent (2/10 of 1%) in a milk test between his or her test and that made by any person engaged in buying or selling milk, cream, or other dairy products for the basis of payment, the ~~Director~~ Secretary of the Department of Health or deputy shall cause his or her test to be verified and substantiated by a recognized laboratory. If the chemist shall find that the test made by the ~~Director~~ Secretary of the Department of Health or deputy is correct, the test thus made and verified shall be admitted in evidence in all prosecutions for violation of this section. The ~~Director of the Department of Health~~ secretary is authorized to recall and cancel the testor's permit of the person thus making false tests or to bring criminal action against the person, or both;

(9) Carrier Regulations.

(A) To forbid and prevent any common carrier to neglect or fail to remove or ship from its depot, within twenty-four (24) hours of its arrival there for shipment, any milk, cream, or other dairy products left at that depot for transportation.

(B) Railway and express companies and other common carriers shall provide and utilize sanitary ventilated rooms or canvas covers at depots or transfer points for the protection from extreme temperatures of all milk, cream, and ice cream received for shipment and not allow merchandise of a contaminating nature to be stored on or with the cream.

(C) Truck route operators shall protect milk and cream from extreme temperatures and unsanitary conditions during transportation by proper covering and separation to prevent contamination from other transportation products;

(10) Cans or Packers at Depot. To forbid and prevent milk or cream cans or ice cream packers to remain at a railroad or truck depot longer than forty-eight (48) hours from the date of their arrival, excepting

individual farm shipments;

(11) Branded Containers.

(A) To forbid and prevent the use of any branded or registered cream can or milk can, ice cream, or frozen dessert packer or container for any other purpose than the handling, storing, or shipping of milk, cream, or frozen dessert.

(B) It shall be unlawful for any person or carrier other than the rightful owner, except with written consent of the owner thereof, to use, transport, or deliver any milk or cream can, whether filled with cream or milk or empty, or frozen dessert container, whether filled with frozen dessert or empty, to other than the rightful owner if the receptacle is marked with the brand or trademark of the owner, the brand or trademark being registered according to law with the Secretary of State;

(12) Alteration of Brand – Return of Containers.

(A) To forbid and prevent any person other than the rightful owner thereof to in any way alter the mark or brand or ownership identification on any milk or cream can or other dairy receptacle without written consent of the owner.

(B) Every person, firm, or corporation purchasing frozen desserts in cans and shipping bags which are to be returned to the manufacturer shall cause the cans to be washed and cleaned as soon as emptied, and the bags stored in a dry place, or returned at once;

(13) Samples of Frozen Desserts. To take samples of frozen desserts, ice cream, or other frozen dairy products for official testing at the factory where desserts are frozen or from an unopened container of frozen desserts or other frozen dairy products, according to a method approved by the AOAC International or the American Dairy Science Association; and

(14) Containers Used for Other Purposes. To forbid and prevent the sale or storage of milk, cream, or other dairy products in milk or cream cans which have previously contained kerosene, gasoline, turpentine, oil, or products or byproducts of a similar nature;

(15) Dairy Product Definitions and Standards of Identity and Labeling Requirements.

(A) To adopt the definitions and standards of identity for milk, milk products, cheeses, and frozen desserts found at 21 C.F.R., Parts 131, 133, and 135, and to adopt any amendments or additions made thereunder.

The board may adopt definitions and standards of identity of milk products, cheeses, and frozen desserts if they are not found at 21 C.F.R. All packages enclosing milk, milk products, cheeses, and frozen desserts shall be labeled in accordance with the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act, and regulations promulgated thereunder.

(B) Provided, that the board shall not change, correct, adopt, or promulgate rules or regulations or other health code standards pertaining to the dairy industry of Arkansas, as defined in this section, until such changes have been reviewed by active Arkansas milk producers marketing agents, herein referred to as the "agents", and by the Arkansas Dairy Products Association, hereinafter referred to as the "association", in regular or especially called meetings of the agents and the association, or the governing bodies thereof. However, if meetings of the agents and the association are not held within thirty (30) days after a written notice by the board of intent to change, correct, adopt, or promulgate rules and regulations, the review of the agents and the association shall be deemed waived.

(C) Notice as required by this subsection shall be given in writing by ordinary mail, or be hand delivered, to the agents and to the Director of the Arkansas Dairy Products Association.

(D) The ~~Director~~ Secretary of the Department of Health or the board may change, correct, adopt, or promulgate rules and regulations pertaining to the dairy industry of Arkansas in times of emergency or natural disaster without notice to the agents and the association.

(E) As used in this subchapter, the term "dairy industry of Arkansas" means Grade "A" milk plants, milk manufacturing plants, ice cream plants, milk producers, milk producer-distributors, milk haulers, milk distributors, dairy farms, receiving stations, and transfer stations.

SECTION 226. Arkansas Code § 20-59-206(b), concerning a dairy plant license, is amended to read as follows:

(b) Every person buying or receiving milk, cream, or dairy products for manufacturing, processing, or packaging shall be required to procure from the ~~Director~~ Secretary of the Department of Health an annual dairy plant license for each location where milk, cream, or dairy products are received for the purpose of manufacturing, processing, or packaging.

SECTION 227. Arkansas Code § 20-59-207(b), concerning the frozen dessert manufacturer's license, is amended to read as follows:

(b) Any person making frozen dessert for sale shall be required to procure from the ~~Director~~ Secretary of the Department of Health an annual frozen dessert manufacturer's license for each location or plant where frozen dessert is manufactured.

SECTION 228. Arkansas Code § 20-59-210(b), concerning a sampler and grader license, is amended to read as follows:

(b) Applications to become a licensed sampler and grader shall be made to the ~~Director~~ Secretary of the Department of Health upon such forms as he or she may prescribe.

SECTION 229. Arkansas Code § 20-59-210(e), concerning a sampler and grader license, is amended to read as follows:

(e) In order to qualify for a license, the applicant shall satisfy the ~~director~~ secretary, either by a written examination or otherwise, that he or she is honest and competent to do sampling work.

SECTION 230. Arkansas Code § 20-59-211(b), concerning the milk tester license and fee, is amended to read as follows:

(b) Application to become a licensed milk tester shall be made to the ~~Director~~ Secretary of the Department of Health upon such forms as the ~~director~~ secretary may prescribe.

SECTION 231. Arkansas Code § 20-59-211(d), concerning the milk tester license and fee, is amended to read as follows:

(d) If the applicant shall be found upon examination to be qualified and competent, the ~~director~~ secretary shall issue to him or her a license.

SECTION 232. Arkansas Code § 20-59-226 is amended to read as follows:

20-59-226. Unlawful acts – Removing label of health officer.

It shall be unlawful to remove or deface any tags or labels which have been attached by the ~~Director~~ Secretary of the Department of Health or his or her deputies to a receptacle containing cream, milk, or other dairy products.

SECTION 233. Arkansas Code § 20-59-232 is amended to read as follows:

20-59-232. Unlawful acts – Records of cream buyers – Monthly reports.

It shall be unlawful for all cream buyers to purchase cream without keeping a careful record of all cream bought as first grade and second grade, and they shall render the report regularly to the creamery or factory receiving the cream. Creameries shall report the above information monthly, together with other cream purchase reports to the ~~Director~~ Secretary of the Department of Health on forms furnished them.

SECTION 234. Arkansas Code § 20-59-234 is amended to read as follows:

20-59-234. Unlawful acts – Operation without permit.

It shall be unlawful for any person, firm, or corporation to operate a dairy products plant, including milk and cream stations, or freeze or manufacture frozen desserts, or operate a condensery depot within the State of Arkansas without having first secured a permit, except as provided for in § 20-59-244, signed by the ~~Director~~ Secretary of the Department of Health and bearing the seal of his or her office. The permit shall be displayed conspicuously at the place of business.

SECTION 235. Arkansas Code § 20-59-243 is amended to read as follows:

20-59-243. Unlawful acts – Graded milk.

It shall be unlawful to label, sell, or offer for sale any milk as graded milk unless the grade is officially awarded by the ~~Director~~ Secretary of the Department of Health having jurisdiction in accordance with the provisions of the United States Public Health Service Standard Milk Ordinance and Code.

SECTION 236. Arkansas Code § 20-59-244 is amended to read as follows:

20-59-244. Unlawful acts – Pasteurized milk – Permit.

It shall be unlawful to label, sell, or offer for sale as pasteurized any milk unless it has been pasteurized in accordance with the provisions of the United States Public Health Service Standard Milk Ordinance and Code under a permit issued by the ~~Director~~ Secretary of the Department of Health. However, no permit shall be required where plants are operating under permit from a municipality enforcing the United States Public Health Service

Standard Milk Ordinance and Code.

SECTION 237. Arkansas Code § 20-59-246(a), concerning a manufacturing milk permit, is amended to read as follows:

(a) Every dairy which produces milk or cream to be used for manufacturing purposes shall be required to procure from the ~~Director~~ Secretary of the Department of Health a manufacturing milk permit.

SECTION 238. Arkansas Code § 20-59-303(c), concerning enforcement by the State Board of Health, is amended to read as follows:

(c) However, any aggrieved party shall have the right to apply to the circuit court in the county of his or her residence for a review of any summary action on the part of the board or its agents. For this purpose, service of process upon the ~~Director~~ Secretary of the Department of Health at any place in this state shall constitute a valid service in the application for review.

SECTION 239. Arkansas Code § 20-59-305(a), concerning the requirement for a production permit for mellorine, is amended to read as follows:

(a) It shall be unlawful for any person, firm, or corporation to operate a plant producing, manufacturing, processing, freezing, or packaging mellorine or mellorine mix without having first secured a permit signed by the ~~Director~~ Secretary of the Department of Health and bearing the seal of his or her office. The permit shall be displayed conspicuously at the place of business.

SECTION 240. Arkansas Code § 20-59-305(d), concerning the requirement for a production permit for mellorine, is amended to read as follows:

(d) The ~~director~~ secretary shall collect for the permits, and all funds collected by the ~~director~~ secretary under the provisions of this subchapter shall be deposited into the State Treasury.

SECTION 241. Arkansas Code § 20-59-404(b), concerning inspection fees under the Grade "A" Milk and Milk Products Inspection and Regulation Program, is amended to read as follows:

(b) If any person fails, neglects, or refuses to pay the above fee and

is delinquent for a period of thirty (30) days, the ~~Director~~ Secretary of the Department of Health is directed and empowered to prohibit the person from distributing, hauling, selling, or otherwise handling Grade "A" milk or milk products in the state and shall suspend his or her permit and withdraw all inspection service from the establishment until fees are paid in full.

SECTION 242. Arkansas Code § 20-59-506(b)(2), concerning the review of proposed rules concerning the Grade "A" milk industry, is amended to read as follows:

(2) The ~~Director~~ Secretary of the Department of Health and the board may adopt rules and regulations pertaining to the Grade "A" milk industry of this state in times of emergency or natural disaster without notice to the committee.

SECTION 243. Arkansas Code § 20-60-204(a) and (b), concerning regulation of labeling, sanitary standards, practices, and procedures for livestock producers, are amended to read as follows:

(a)(1) The ~~Director~~ Secretary of the Department of Health shall, by regulation and under such conditions as to labeling, sanitary standards, practices, and procedures as he or she may prescribe, exempt from specific provisions of this subchapter:

(A) Livestock producers with respect to livestock carcasses and parts thereof, and meat food products, processed by them from livestock of their own raising on their own farms and used by them for personal or private consumption, but in no instance where the product is to be offered or used for public consumption;

(B) Any person engaged in slaughtering livestock or processing livestock carcasses or parts thereof or meat food products for intrastate commerce and the articles so processed by the person, whenever the ~~director~~ secretary determines that it would be impracticable to provide inspection and that the exemption will aid in the effective administration of this subchapter;

(C) Persons slaughtering livestock or otherwise processing or handling livestock carcasses or parts thereof, or meat food products, which have been or are to be processed as required by recognized religious dietary laws, to the extent that the ~~director~~ secretary determines is

necessary to avoid conflict with the requirements while still effectuating the purposes of this subchapter; and

(D) Any establishment engaged in slaughtering livestock or processing livestock carcasses or parts thereof, or meat food products for intrastate commerce, and the articles so processed by the establishment when the establishment is subject to inspection under a city ordinance which sets standards in conformity with the minimum standards determined by the ~~director~~ secretary.

(2) The ~~director~~ secretary may, by order, suspend or terminate any exemption under this section with respect to any person whenever he or she finds that the action will aid in effectuating the purposes of this subchapter.

(b) This subchapter shall not apply to any act or transaction subject to regulation under the Federal Meat Inspection Act, where the standards required under the federal act are in conformity with the minimum standards determined by the ~~director~~ secretary.

SECTION 244. Arkansas Code § 20-60-204(c)(3)(A), concerning regulation of labeling, sanitary standards, practices, and procedures for livestock producers, is amended to read as follows:

(A) The custom establishment must comply with the regulations which the ~~director~~ secretary is authorized to promulgate to assure that any carcasses, parts thereof, meat, or meat food products prepared or any containers or packages containing uninspected, exempted custom products are separated at all times from inspected carcasses, parts thereof, or meat, or meat food products prepared for sale;

SECTION 245. Arkansas Code § 20-60-205(d), concerning the penalties for violating the Arkansas Meat and Meat Products Inspection Act, is amended to read as follows:

(d) Nothing in this subchapter shall be construed as requiring the ~~Director~~ Secretary of the Department of Health to report violations of this subchapter for criminal prosecution whenever the ~~director~~ secretary believes that the public interest will be adequately served and compliance with this subchapter obtained by a suitable written notice of warning.

SECTION 246. Arkansas Code § 20-60-206 is amended to read as follows:

20-60-206. ~~Director~~ Secretary of the Department of Health – Powers and duties.

(a)(1) The ~~Director~~ Secretary of the Department of Health shall promulgate such rules and regulations and appoint such veterinarians and other qualified personnel as are necessary to carry out the purposes or provisions of this subchapter. The rules and regulations shall be in conformity with the rules and regulations under the Federal Meat Inspection Act as now in effect and with subsequent amendments thereof unless they are considered by the ~~director~~ secretary as not to be in accord with the objectives of this subchapter.

(2) Notice of proposed rules and regulations shall be given all establishments licensed under this subchapter. A hearing shall be called by the ~~director~~ secretary at which proponents and opponents of the proposed rules and regulations shall be given the opportunity to present arguments supporting their positions. The time, place, and procedure for the hearing shall be determined by the ~~director~~ secretary. No proposed rules and regulations shall become effective until after the hearing.

(b) The ~~director~~ secretary may cooperate with the United States Government in carrying out the provisions of this subchapter and the Federal Meat Inspection Act.

SECTION 247. Arkansas Code § 20-60-208(a), concerning an application for a license or exemption for meat food processing, is amended to read as follows:

(a) Applications for inspection or exemption shall be made on forms furnished by the ~~Director~~ Secretary of the Department of Health.

SECTION 248. Arkansas Code § 20-60-208(d), concerning an application for a license or exemption for meat food processing, is amended to read as follows:

(d) Before any license is issued, an inspection shall be made by the ~~director~~ secretary to determine the acceptability of the establishment to do business as desired by the applicant in his or her application for license or exemption.

SECTION 249. Arkansas Code § 20-60-209 is amended to read as follows:  
20-60-209. Inspection and sanitary practices required.

(a) Each official establishment at which livestock are slaughtered or livestock carcasses or parts thereof or meat food products are processed for intrastate commerce shall have the premises, facilities, and equipment inspected and shall be operated in accordance with such sanitary practices as are required by rules or regulations prescribed by the ~~Director~~ Secretary of the Department of Health for the purpose of preventing the entry into and movement in commerce of carcasses, parts thereof, and meat food products which are unwholesome or adulterated.

(b) No livestock carcasses or parts thereof, or meat food product, shall be admitted into any official establishment unless they have been prepared only under inspection pursuant to this subchapter or the Federal Meat Inspection Act or their admission is permitted by rules or regulations prescribed by the ~~director~~ secretary under this subchapter.

(c) The ~~director~~ secretary shall refuse to render inspection to any establishment whose premises, facilities, or equipment, or the operation thereof, fail to meet the requirements of this section.

SECTION 250. Arkansas Code § 20-60-210(a)-(c), concerning inspection procedures for the commerce of livestock carcasses, are amended to read as follows:

(a) For the purpose of preventing the entry into or movement in intrastate commerce of any livestock carcass, part thereof, or meat food product which is unwholesome or adulterated and is intended for or capable of use as human food, the ~~Director~~ Secretary of the Department of Health shall, where and to the extent considered by him or her necessary, cause to be made by inspectors antemortem inspection of livestock in any official establishment where livestock are slaughtered for such commerce.

(b) For the purpose stated in subsection (a) of this section, the ~~director~~ secretary, whenever slaughtering or other processing operations are being conducted, shall cause to be made by inspectors postmortem inspection of the carcasses and parts thereof of each animal slaughtered in any official establishment. He or she shall cause to be made by inspectors an inspection of all meat food products processed in any official establishment in which meat food products are processed for intrastate commerce.

(c) The ~~director~~ secretary shall also cause, at any time, such quarantine, segregation, and reinspection of livestock, livestock carcasses, and parts thereof, and meat food products in official establishments as he or she deems necessary to effectuate the purposes of this subchapter.

SECTION 251. Arkansas Code § 20-60-211 is amended to read as follows:

20-60-211. Withdrawal and denial of inspection.

(a) The ~~Director~~ Secretary of the Department of Health may withdraw or otherwise deny inspection under this subchapter with respect to any establishment for such period as he or she deems necessary to effectuate the purposes of this subchapter for any violation of the subchapter or any requirements thereunder by the operation of the establishment.

(b)(1) However, before a withdrawal or denial of inspection is ordered, the ~~director~~ secretary shall give the affected establishment an opportunity for a hearing at which the establishment may present evidence that it has not violated the subchapter or any requirements thereunder.

(2) The hearing shall be held after notice to the establishment in such manner as the ~~director~~ secretary shall determine by his or her rules and regulations.

SECTION 252. Arkansas Code § 20-60-212(a), concerning the cost of inspection for overtime or holiday work, is amended to read as follows:

(a) The cost of inspection rendered under this subchapter shall be borne by this state. The cost of overtime and holiday work performed in establishments subject to the provisions of this subchapter at such rates as the ~~Director~~ Secretary of the Department of Health may determine shall be borne and paid by the establishments. An inspector performing overtime and holiday work shall be treated as though he or she were on compensatory leave at such compensation as shall equal the rates set by the ~~director~~ secretary.

SECTION 253. Arkansas Code § 20-60-213(a)(4), concerning the labeling and marking of meat or meat food products, is amended to read as follows:

(4) The ~~Director~~ Secretary of the Department of Health may by rules or regulations require additional marks or label information to appear on livestock carcasses or parts thereof or meat food products when they leave the official establishments or at the time of their transportation or sale in

this state. He or she may permit reasonable variations and grant exemptions from the marking and labeling requirements of this section in any number not in conflict with the purposes of this subchapter.

SECTION 254. Arkansas Code § 20-60-213(c), concerning the labeling and marking of meat or meat food products, is amended to read as follows:

(c)(1) No livestock carcasses or parts thereof or meat food products inspected or required to be inspected pursuant to the provisions of this subchapter shall be sold or offered for sale by any person, firm, or corporation under any false or deceptive name, but established trade names which are usual to the articles and which are not false or deceptive and which are approved by the ~~director~~ secretary are permitted.

(2) If the ~~director~~ secretary has reason to believe that any advertising or any label in use or prepared for use is false or misleading in any particular, he or she may direct that the use of the advertising or label be withheld unless it is modified in such manner as he or she may prescribe so that it will not be false or misleading.

(3) If the person using or proposing to use any advertising or the label does not accept the determination of the ~~director~~ secretary, he or she may request a hearing, but the use of the advertising or the label shall, if the ~~director~~ secretary so directs, be withheld pending hearing and final determination by the ~~director~~ secretary.

(4) Any determination by the ~~director~~ secretary shall be conclusive unless within thirty (30) days after the receipt of notice of the final determination, the person adversely affected thereby appeals to the Pulaski County Circuit Court.

SECTION 255. Arkansas Code § 20-60-214(3), concerning prohibited acts under the Arkansas Meat and Meat Products Inspection Act, is amended to read as follows:

(3) Falsely making or issuing, altering, forging, simulating, counterfeiting, or using without proper authority any official inspection certificate, memorandum, mark, or other identification, or device for making a mark or identification, used in connection with inspection under this subchapter; or causing, procuring, aiding, assisting in, or being a party to false making, issuing, altering, forging, simulating, counterfeiting, or

unauthorized use; or knowingly possessing, without promptly notifying the ~~Director~~ Secretary of the Department of Health or his or her representative, uttering, publishing, or using as true, or causing to be uttered, published, or used as true, any falsely made or issued, altered, forged, simulated, or counterfeited official inspection certificate, memorandum, mark, or other identification, or device for making a mark or identification; or representing that any article has been officially inspected under the authority of this subchapter when the article has in fact not been so inspected; or knowingly making any false representation in any certificate prescribed by the ~~director~~ secretary in rules or regulations under this subchapter or any form resembling the certificate;

SECTION 256. Arkansas Code § 20-60-214(7), concerning prohibited acts under the Arkansas Meat and Meat Products Inspection Act, is amended to read as follows:

(7) The refusal to permit access by any authorized representative of the ~~director~~ secretary at all reasonable times to the premises of an establishment in this state at which livestock are slaughtered or the carcasses or parts thereof or meat food products are processed for intrastate commerce upon presentation of appropriate credentials;

SECTION 257. Arkansas Code § 20-60-214(10), concerning prohibited acts under the Arkansas Meat and Meat Products Inspection Act, is amended to read as follows:

(10) Delivering, receiving, transporting, selling, or offering for sale or transportation in intrastate commerce for human consumption any livestock carcass or part thereof or meat food product which has been processed in violation of any requirements under this subchapter except as may be authorized by and pursuant to rules and regulations prescribed by the ~~director~~ secretary;

SECTION 258. Arkansas Code § 20-60-215(a), concerning records under the Arkansas Meat and Meat Products Inspection Act, is amended to read as follows:

(a) For the purpose of enforcing the provisions of this subchapter, persons engaged in this state in the business of processing for intrastate

commerce or transporting, shipping, or receiving in commerce livestock slaughtered for human consumption or meat or meat food products, or holding articles so received, shall maintain the records as the ~~Director~~ Secretary of the Department of Health by regulation may require, showing, to the extent that they are concerned therewith, the receipt, delivery, sale, movement, or disposition of the articles and shall, upon the request of an authorized representative of the ~~director~~ secretary, permit him or her at reasonable times to have access to and to copy all the records.

SECTION 259. Arkansas Code § 20-60-303 is amended to read as follows:

20-60-303. Regulatory authority of the ~~Director~~ Secretary of the Department of Health.

The ~~Director~~ Secretary of the Department of Health shall promulgate such rules and regulations as are necessary to carry out the purposes and provisions of this subchapter.

SECTION 260. Arkansas Code § 20-60-306 is amended to read as follows:

20-60-306. Acceptance service – Cost.

The cost of providing the acceptance service and ensuing certification shall be borne and paid by the seller, slaughterer or processor, or vendor or merchant requesting the service at such rate as the ~~Director~~ Secretary of the Department of Health may determine as being necessary to defer the cost of this service.

SECTION 261. Arkansas Code § 20-64-203 is amended to read as follows:

20-64-203. Manufacturers and wholesalers.

No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce or prepare narcotic drugs, and no person as a wholesaler shall supply the same, without having first obtained a license so to do from the ~~Director~~ Secretary of the Department of Health.

SECTION 262. Arkansas Code § 20-64-204 is amended to read as follows:

20-64-204. Qualification for licenses.

No license shall be issued under § 20-64-203 unless and until the applicant therefor has furnished proof satisfactory to the ~~Director~~ Secretary of the Department of Health:

(a) That the applicant is of good moral character or, if the applicant be an association or corporation, that the managing officers are of good moral character;

(b) That the applicant is equipped as to land, buildings, and paraphernalia properly to carry on the business described in his application. No license shall be granted to any person who has within five (5) years been convicted of a willful violation of any law of the United States, or of any state, relating to opium, coca leaves, or other narcotic drugs, or to any person who is a narcotic drug addict. The ~~director~~ secretary may suspend or revoke any license for cause.

SECTION 263. Arkansas Code § 20-64-205(3), concerning a sale on written orders to dispense narcotic drugs under the Uniform Narcotic Drug Act, is amended to read as follows:

(3) Use of Official Written Orders. An official written order for any narcotic drug shall be signed in quadruplicate by the person giving said order or his duly authorized agent. The original shall be presented to the person who sells or dispenses the narcotic drug or drugs named therein, and one (1) copy shall be sent to the ~~Director~~ Secretary of the Department of Health not later than the 10th of the month following the month during which the order was made. In event of the acceptance of such order by said person, each party to the transaction shall preserve his copy of such order for a period of two (2) years in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this subchapter. It shall be deemed a compliance with this subsection if the parties to the transaction have complied with the federal narcotic laws, respecting the requirements governing the use of order forms, and the purchaser has sent a signed copy of the order to the ~~director~~ secretary as aforesaid.

SECTION 264. Arkansas Code § 20-64-206(1), concerning sales by apothecaries under the Uniform Narcotic Drug Act, is amended to read as follows:

(1) An apothecary, in good faith, may sell and dispense narcotic drugs to any person upon a written prescription or an oral prescription in pursuance to regulations, promulgated by the ~~Director~~ Secretary of the

Department of Health under authority of § 20-64-219, of a physician, dentist, or veterinarian, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient for whom, or the owner of the animal for which, the drug is dispensed, and the full name, address, and registry number under the federal narcotic laws of the person prescribing. If the prescription is for an animal, it shall state the species of animal for which the drug is prescribed. The person filling the prescription shall write the date of filling and his own signature on the face of the prescription. The prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of two (2) years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this subchapter. The prescription must not be refilled.

SECTION 265. Arkansas Code § 20-64-208(a)(1), concerning preparations exempted under the Uniform Narcotic Drug Act, is amended to read as follows:

(1) Administering, dispensing, or selling at retail any drug subject to this subchapter under any circumstances that the ~~Director~~ Secretary of the Department of Health determines, after reasonable notice and opportunity for hearing, not to be dangerous to the public health, or promotive of addiction-forming or addiction-sustaining results upon the user, or harmful to the public health, safety, or morals, and by order so proclaims. In arriving at his determination, the ~~Director~~ Secretary of the Department of Health shall consult with the Drug Enforcement Administration of the Treasury Department of the United States and give due weight to its investigations and determinations;

SECTION 266. Arkansas Code § 20-64-209(5), concerning records to be kept under the Uniform Narcotic Drug Act, is amended to read as follows:

(5) Form and Preservation of Records. The form of records shall be prescribed by the ~~Director~~ Secretary of the Department of Health. The record of narcotic drugs received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received; the kind and quantity of narcotic drugs produced or removed from process of manufacturer, and the date of such production or removal from process of manufacturer; and the record shall in

every case show the proportion of morphine, cocaine, or ecgonine contained in or producible from crude opium or coca leaves received or produced. The record of all narcotic drugs sold, administered, dispensed, or otherwise disposed of shall show the date of selling, administering, or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of animal for which the drugs were sold, administered, or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period of two (2) years from the date of the transaction recorded. The keeping of a record required by or under the federal narcotic laws, containing substantially the same information as is specified above, shall constitute compliance with this section, except that every such record shall contain a detailed list of narcotic drugs lost, destroyed, or stolen, if any, the kind and quantity of such drugs, and the date of the discovery of such loss, destruction, or theft.

SECTION 267. Arkansas Code § 20-64-214 is amended to read as follows:  
20-64-214. Narcotic drugs to be delivered to state official, etc.

Upon delivery to the ~~Director~~ Secretary of the Department of Health of any narcotic drugs discarded by the owner thereof or other person entitled to the possession or custody thereof, and upon the ~~Director~~ Secretary of the Department of Health delivering to such person an itemized receipt therefor, the ~~Director~~ Secretary of the Department of Health is empowered to destroy such narcotic drugs; provided, that the ~~Director~~ Secretary of the Department of Health shall keep for a period of three (3) years from the date of destruction a record of such transaction, showing the name and address of the person delivering the narcotic drugs, an itemized description thereof, the date and place of delivery, and the date of destruction.

All narcotic drugs, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer, shall be forfeited, and disposed of as follows:

(a) Except as in this section otherwise provided, the court or magistrate having jurisdiction shall order such narcotic drugs forfeited and destroyed. A record of the place where said drugs were seized, of the kinds and quantities of drugs so destroyed, and of the time, place, and manner of destruction shall be kept, and a return under oath, reporting said destruction, shall be made to the court or magistrate and to the Director of

the Drug Enforcement Administration by the officer who destroys them;

(b) Upon written application by the ~~Director~~ Secretary of the Department of Health, the court or magistrate by whom the forfeiture of narcotic drugs has been decreed may order the delivery of any of them except heroin and its salts and derivatives, to said ~~Director~~ Secretary of the Department of Health, for distribution or destruction, as hereinafter provided;

(c) Upon application by any hospital within this state not operated for private gain, the ~~Director~~ Secretary of the Department of Health may in his discretion deliver any narcotic drugs that have come into his custody by authority of this section to the applicant for medicinal use. The ~~Director~~ Secretary of the Department of Health may from time to time deliver excess stocks of such narcotic drugs to the Director of the Drug Enforcement Administration or may destroy the same;

(d) The ~~Director~~ Secretary of the Department of Health shall keep a full and complete record of all drugs received and of all drugs disposed of, showing the exact kinds, quantities, and forms of such drugs; the persons from whom received and to whom delivered; by whose authority received, delivered, and destroyed; and the dates of the receipt, disposal, or destruction, which record shall be open to inspection by all federal and state officers charged with the enforcement of federal and state narcotic laws.

SECTION 268. Arkansas Code § 20-64-219 is amended to read as follows:  
20-64-219. Enforcement and cooperation.

It is hereby made the duty of the ~~Director~~ Secretary of the Department of Health, his officers, agents, inspectors, and representatives, and of all peace officers within the state, and of all prosecuting attorneys, to enforce all provisions of this subchapter, except those specifically designated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states, relating to narcotic drugs.

The authority to promulgate regulations for the efficient enforcement of this act is hereby vested in the ~~director~~ secretary. The ~~director~~ secretary is hereby authorized to make the regulations promulgated under this subchapter conform insofar as possible under the standards established herein

and under the policies of this subchapter with those regulations promulgated under the federal Narcotic Act.

SECTION 269. Arkansas Code § 20-64-303 is amended to read as follows:

20-64-303. Minor violations of subchapter.

Nothing in this subchapter shall be construed as requiring the State Board of Health to report for the institution of proceedings under this subchapter minor violations of this subchapter whenever the ~~Director~~ Secretary of the Department of Health believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

SECTION 270. Arkansas Code § 20-64-308 is amended to read as follows:

20-64-308. Seizure and forfeiture of contraband – Hearing and disposition.

(a)(1) When an article, drug, or other thing is seized and forfeited under the provisions of § 20-64-307, the ~~Director~~ Secretary of the Department of Health or his or her authorized agent shall, within five (5) days thereafter, publish in a newspaper having a statewide circulation a notice containing a list of the articles, equipment, drugs, or other things seized, the name or names of the person or persons, if known, from whom taken, and the place where seized.

(2) The notice shall advise that the article, drug, or other thing seized and forfeited will be destroyed or sold by the ~~director~~ secretary at the expiration of thirty (30) days from the date of publication of the notice.

(3) Any person claiming any interest in the article, equipment, drug, or other thing may, at any time within the thirty (30) days after the publication of the notice, petition the ~~director~~ secretary for a hearing to be held in the ~~director's~~ secretary's office in Little Rock.

(4) The ~~director~~ secretary shall set a date for the hearing not later than ten (10) days after receiving the written request at which time witnesses shall be sworn and evidence shall be taken.

(5) Within fifteen (15) days after such hearing, the ~~director~~ secretary shall enter his or her written findings of fact and order upon the testimony so presented.

(6) The findings of fact and order of the ~~director~~ secretary may be appealed to the Pulaski County Circuit Court by lodging with the court within fifteen (15) days after the ~~director's~~ secretary's order has been entered a transcript of record of the hearing held before the ~~director~~ secretary. The circuit court shall hear no new evidence on such appeal and shall render its judgment only on errors of law.

(7) An appeal from the judgment of the circuit court may be taken to the Supreme Court.

(b)(1) If the ~~director~~ secretary receives no written petition for a hearing within thirty (30) days from the date of the publication of notice as provided in this section, the ~~director~~ secretary shall, in his or her discretion, proceed to take bids on the article, equipment, drug, or other things seized and forfeited under § 20-64-307 and shall sell them to the highest bidder, or he or she may destroy the articles, equipment, drugs, or other things and shall preserve a written record thereof for two (2) years.

(2) The proceeds for the sale of the articles, drugs, or other things shall be deposited with the Treasurer of State as nonrevenue receipts for credit to the State Apportionment Fund as general revenues to be distributed for the respective purposes as provided by law.

SECTION 271. Arkansas Code § 20-64-316 is amended to read as follows:

20-64-316. Authority of Department of Health employees to investigate, examine, and inspect.

Any officer or employee of the Department of Health designated by the ~~Director~~ Secretary of the Department of Health to conduct examinations, investigations, or inspections under this subchapter relating to depressant or stimulant drugs or to counterfeit drugs may, when so authorized by the ~~director~~ secretary:

- (1) Carry firearms;
- (2) Execute and serve search warrants and arrest warrants;
- (3) Execute seizure by process issued pursuant to §§ 20-64-307 and 20-64-308;
- (4) Make arrests without warrant for offenses under this subchapter with respect to drugs if the offense is committed in his or her presence; and
- (5) Make seizures of drugs or containers or equipment, punches,

dies, plates, stone, labeling, or other things, if they are, or he or she has reasonable grounds to believe that they are, subject to seizure and condemnation under §§ 20-64-307 and 20-64-308.

SECTION 272. Arkansas Code § 20-64-503(4), concerning the definition of "controlled substance" under the laws concerning controlled substances and legend drugs, is amended to read as follows:

(4) "Controlled substance" means those substances, drugs, or immediate precursors listed in Schedules I through VI of the Uniform Controlled Substances Act, § 5-64-101 et seq., and revised by the ~~Director~~ Secretary of the Department of Health pursuant to his or her authority under §§ 5-64-214 – 5-64-216;

SECTION 273. Arkansas Code § 20-77-1607(b)(4), concerning the Advisory Council to the Arkansas Youth Suicide Prevention Task Force, is amended to read as follows:

(4) The ~~Commissioner of Education~~ Secretary of the Department of Education shall appoint one (1) member;

SECTION 274. Arkansas Code § 20-78-206(a)(1)(B), concerning the rules of the Division of Child Care and Early Childhood Education, is amended to read as follows:

(B) In developing proposed rules, the division shall consult with the ~~Director~~ Secretary of the Department of Health or his or her designated representative in regard to rules relating to health.

SECTION 275. Arkansas Code § 20-78-206(a)(3), concerning the rules of the Division of Child Care and Early Childhood Education, is amended to read as follows:

(3) The ~~director~~ Secretary of the Department of Health and the ~~commissioner~~ Secretary of the Department of Education and their designated representatives are directed to cooperate with and assist the division in developing rules and regulations in the respective areas of health and education.

SECTION 276. Arkansas Code § 20-78-703(b)(1), concerning the Rita

Rowell Hale Prenatal and Early Childhood Nurse Home Visitation Program Advisory Council, is amended to read as follows:

(1) Three (3) members from the Department of Health to be appointed by the Governor after consulting the ~~Director~~ Secretary of the Department of Health and subject to confirmation by the Senate;

SECTION 277. Arkansas Code § 20-78-708 is amended to read as follows:  
20-78-708. Funding.

The ~~Director~~ Secretary of the Department of Health is authorized to utilize available general revenue savings and allowable federal funds in support of the activities described in this subchapter in the event that sufficient funds are not allocated for the Rita Rowell Hale Prenatal and Early Childhood Nurse Home Visitation Program herein. The ~~director~~ secretary is authorized to transfer appropriations and funds as necessary but only for the purposes provided in this subchapter. Upon approval of the Chief Fiscal Officer of the State and review by the Legislative Council, the transfers shall be made upon the books of the Department of Finance and Administration, the Auditor of State, and the Treasurer of State.

SECTION 278. Arkansas Code § 23-79-1201(3)(B), concerning the definition of "persons at high risk for colorectal cancer" under the laws governing coverage for colorectal cancer screening, is amended to read as follows:

(B) Any additional or expanded definition of "persons at high risk for colorectal cancer" as recognized by medical science and determined by the ~~Director~~ Secretary of the Department of Health in consultation with the University of Arkansas for Medical Sciences.

SECTION 279. Arkansas Code § 23-79-1202(d)(1)(B), concerning coverage for colorectal cancer examinations, is amended to read as follows:

(B) Any additional medically recognized screening tests for colorectal cancer required by the ~~Director~~ Secretary of the Department of Health, determined in consultation with appropriate healthcare organizations.

SECTION 280. Arkansas Code § 23-99-702(2), concerning the definition of "director" under the laws establishing grievance systems and quality

assessment and improvement systems, is amended to read as follows:

(2) “~~Director~~ Secretary” means the ~~Director~~ Secretary of the Department of Health;

SECTION 281. Arkansas Code § 23-99-703(b)(2), concerning a health carrier network grievance system, is amended to read as follows:

(2) Submit in the form and manner prescribed by the ~~Director~~ Secretary of the Department of Health a periodic report which shall include:

(A) A written description of the processes and procedures for resolving grievances; and

(B) The total number of grievances handled through the grievance system, including a compilation of the dates of the grievances, the reason for the grievances, and resolutions of each grievance.

SECTION 282. Arkansas Code § 23-99-703(c), concerning a health carrier network grievance system, is amended to read as follows:

(c) In consultation with the Insurance Commissioner, the ~~director~~ secretary may promulgate rules and regulations in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., to carry out the provisions of this subchapter to enable the state to be properly informed of quality issues within the state and to adequately respond to any quality concerns expressed through grievances.

SECTION 283. Arkansas Code § 23-99-704(a)(3), concerning health carrier quality assessment and improvement systems, is amended to read as follows:

(3) Submit to the ~~Director~~ Secretary of the Department of Health in the time, manner, and form prescribed the following information:

(A) A written description of any quality assessment and quality improvement systems; and

(B) Findings of relevant quality data as determined by the ~~director~~ secretary.

SECTION 284. Arkansas Code § 23-99-704(b), concerning health carrier quality assessment and improvement systems, is amended to read as follows:

(b) In consultation with the Insurance Commissioner, the ~~director~~

secretary may promulgate rules and regulations in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., to carry out the provisions of this subchapter to enable the state to be properly informed of quality issues within the state and to adequately respond to any quality concerns found through the outcome data.

SECTION 285. Arkansas Code § 23-99-705(b), concerning the applicability and scope of rules regarding a health carrier, is amended to read as follows:

(b) In terms of the ~~Director~~ Secretary of the Department of Health's regulatory authority pursuant to §§ 23-99-703 and 23-99-704, such authority shall apply to the quality of care provided by health carriers and networks operating in this state and shall not apply to the benefits offered by any health carrier and network or to the administration of such benefits.

SECTION 286. Arkansas Code § 23-99-706 is amended to read as follows:  
23-99-706. Enforcement and penalties.

The ~~Director~~ Secretary of the Department of Health shall have the power to implement and enforce this subchapter.

SECTION 287. Arkansas Code § 25-3-104(a), concerning the members of the Arkansas Natural and Cultural Heritage Advisory Committee, is amended to read as follows:

(a) There is established an Arkansas Natural and Cultural Heritage Advisory Committee whose members shall consist of:

- (1) The Director of the ~~Department~~ Division of Arkansas Heritage;
- (2) The ~~Executive~~ Director of the Arkansas Economic Development Commission;
- (3) The Director of State Highways and Transportation;
- (4) The ~~Director~~ Secretary of the Department of Health;
- (5) The Director of the ~~Department~~ Division of Parks and Tourism;
- (6) The Director of the Arkansas State Game and Fish Commission;
- (7) A person appointed by the Governor;
- (8) A person appointed by the President Pro Tempore of the

Senate; and

(9) A person appointed by the Speaker of the House of Representatives.

SECTION 288. Arkansas Code Title 25, Chapter 9, is repealed.

~~Chapter 9—Department of Health~~

~~25-9-101. Creation—Director—Organization—Personnel.~~

~~(a)(1) There is created the Department of Health, which is to be established if the Governor orders the separation of the Division of Health of the Department of Health and Human Services from the Department of Health and Human Services.~~

~~(2) Unless stated otherwise, all references in this chapter to “director” shall mean the Director of the Department of Health, if established, and otherwise the Director of the Division of Health of the Department of Health and Human Services.~~

~~(b)(1)(A) The director, with the advice and consent of the Governor, shall appoint the heads of the respective units of the Division of Health of the Department of Health and Human Services or the Department of Health.~~

~~(B) All other personnel of the Department of Health shall be employed by and shall serve at the pleasure of the director.~~

~~(2) However, nothing in this section shall be so construed as to reduce any right that an employee of the Division of Health of the Department of Health and Human Services or the Department of Health has under any civil service or merit system.~~

~~(c)(1) Each unit of the Department of Health shall be under the direction, control, and supervision of the director.~~

~~(2) The director may delegate his or her functions, powers, and duties to various units of the Department of Health as he or she shall deem desirable and necessary for the effective and efficient operation of the Department of Health.~~

~~(d)(1) The Division of Health of the Department of Health and Human Services or the Department of Health shall maintain an Office of Oral Health.~~

~~(2) The Director of the Office of Oral Health shall be an experienced public health dentist licensed to practice under the Arkansas Dental Practice Act, § 17-82-101 et seq.~~

~~(3) The Director of the Office of Oral Health shall:~~

~~(A) Plan, direct, and coordinate all dental public health programs with other local, state, and national health programs;~~

~~(B) Serve as the department's chief advisor on matters involving oral health; and~~

~~(C) Plan, implement, and evaluate all oral health programs within the department.~~

~~25-9-103. Patient care providers—Wages—Required withholding—Fringe benefits.~~

~~(a) The Department of Health is authorized to pay wages and required state withholding, federal withholding, required matching, and other fringe benefits for patient care part-time intermittent contractual personnel who must be employed in order to provide services in the home.~~

~~(b) These payments will be made from the appropriation for professional fees and services.~~

~~25-9-104. Additional compensation—County Health Unit Administrators.~~

~~(a) Any employee serving in the capacity of County Health Unit Administrator shall be eligible for up to ten percent (10%) of additional compensation within the grade during the period of time in which the employee occupies the position.~~

~~(b) Employees on the highest level of their grade shall be eligible for additional compensation in an amount not to exceed five and one-half percent (5.5%) of their current salary upon assuming responsibility, and this amount shall not be construed as exceeding the line item maximum for the grade for that position.~~

~~(c)(1) The Department of Health shall certify to the Chief Fiscal Officer of the State the assignment of duties of each employee in this position, the length of the assignment, and the location and reason for the assignment.~~

~~(2) The Chief Fiscal Officer of the State shall approve the request prior to the awarding of additional compensation.~~

~~25-9-105. Home health on call and visit pay.~~

~~(a) The Department of Health is hereby authorized to compensate the~~

~~following personnel responsible for providing in-home health care as necessary to maintain continuity of care outside routine working hours on weekdays and on weekends or holidays:~~

- ~~(1) R055 Hlth Public Hlth Nursing Prog. Coord;~~
- ~~(2) L082 Nursing Services Specialist;~~
- ~~(3) L033 Home Health Nurse I;~~
- ~~(4) L034 Home Health Nurse II;~~
- ~~(5) L138 Speech Pathologist I;~~
- ~~(6) L140 Speech Pathologist II;~~
- ~~(7) L142 Speech Pathologist Supervisor;~~
- ~~(8) L102 Physical Therapist I;~~
- ~~(9) L104 Physical Therapist II;~~
- ~~(10) L106 Physical Therapy Supervisor;~~
- ~~(11) M086 Social Worker I;~~
- ~~(12) M088 Social Worker II;~~
- ~~(13) L086 Occupational Therapist I;~~
- ~~(14) L088 Occupational Therapist II;~~
- ~~(15) L090 Occupational Therapist Supervisor;~~
- ~~(16) R056 Hlth. Pub. Hlth. Nursing Program Administrator;~~
- ~~(17) L047 LPN I;~~
- ~~(18) L049 LPN II;~~
- ~~(19) L154 Public Hlth. Nurse I;~~
- ~~(20) L156 Public Hlth. Nurse II;~~
- ~~(21) L021 PH Technician II; and~~
- ~~(22) L155 PH Technician I.~~

~~(b)(1) Visit pay shall not exceed forty-five dollars (\$45.00) per visit.~~

~~(2) Employees requested to be on-call or on-standby, or both, for visiting on nights, weekends or holidays, or both, will be eligible to receive on-call pay not to exceed thirty dollars (\$30.00) per day.~~

~~(3)(A) Provided, however, no compensation shall be paid to any employees required to be on-call or on-standby, or both, who fail to respond after the second notification that their services are needed.~~

~~(B) In the event of equipment or paging device malfunction, the penalty shall not apply.~~

~~(4) All compensated services shall be provided as directed by~~

~~the department.~~

~~(5)(A) All visit and on-call pay shall be paid from funds from in-home services extra salaries as appropriated in this act.~~

~~(B) The compensation for visit and on-call pay when added to the employee's regular salary and benefits shall not be construed as exceeding the maximum annual salary as described in the General Accounting and Budgetary Procedures Law, § 19-4-101 et seq.~~

~~25-9-106. Community Alcohol Safety Program—Definition.~~

~~(a) On or after July 1, 1999, all powers, duties, functions, records, and funds administered or provided by other support divisions within the Arkansas Department of Transportation for the Traffic Safety Section of the Planning and Research Division regarding or relating to the state alcohol program, commonly known as the "Community Alcohol Safety Program", administered by the Arkansas Department of Transportation under the laws of this state and transferred to the Arkansas Department of Transportation by Acts 1989, 1st Ex. Sess., No. 153, shall be transferred by a type 2 transfer, as defined in § 25-2-105, to the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services.~~

~~(b) As used in this section, "funds" means all funds derived from the State Administration of Justice Fund under § 16-10-310 for usage by the state alcohol program, education fees paid by offenders of the Omnibus DWI or BWI Act, § 5-65-101 et seq., and the appropriation for community alcohol safety.~~

~~25-9-107. Transfer of personnel under § 25-9-106.~~

~~All personnel transferred from the Arkansas Department of Transportation under § 25-9-106 are eligible for employment under this section in a comparable position with the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services.~~

SECTION 289. Arkansas Code Title 25, Chapter 42, is repealed.

~~Chapter 42—~~

~~Health Information Technology~~

~~25-42-101. Purpose.~~

~~The purpose of this chapter is to:~~

~~(1) Establish the Office of Health Information Technology; and~~  
~~(2) Authorize the Office of Health Information Technology to transfer to a nonprofit corporation the State Health Alliance for Records Exchange.~~

~~25-42-102.—Policy.~~

~~(a) The coordination of health information technology activities throughout Arkansas by the Office of Health Information Technology is necessary to obtain the maximum potential value from the investment of federal and state resources to increase the use of health information technology.~~

~~(b) The exchange of health information made possible by the State Health Alliance for Records Exchange can improve the quality of health of Arkansas citizens by reducing the potential for medical errors, reducing the incidence of redundant tests and procedures, improving patient safety, and making the delivery of healthcare services more efficient and affordable.~~

~~(c) The Office of Health Information Technology and the State Health Alliance for Records Exchange shall respect and safeguard each person's privacy interests in his or her health and medical information.~~

~~25-42-104.—Definitions.~~

~~As used in this chapter:~~

~~(1) "Agency" means any agency, board, commission, public instrumentality, political subdivision, or any of the foregoing entities acting on behalf of the State of Arkansas that store, gather, or generate health information;~~

~~(2) "Deidentified" means the same as the meaning under the Health Insurance Portability and Accountability Act of 1996, Public Law No. 104-191;~~

~~(3) "Health information" means any information, whether oral or recorded in any form or medium, that:~~

~~(A) Is created or received by:~~

~~(i) A provider of health care;~~

~~(ii) A health plan;~~

~~(iii) A public health authority;~~

~~(iv) An employer;~~

~~(v) A health insurer;~~

~~(vi) A school or university; or~~

~~(vii) A health care clearinghouse; and~~

~~(B) Relates to the:~~

~~(i) Past, present, or future physical or mental health or condition of an individual;~~

~~(ii) Provision of health care to an individual; or~~

~~(iii) Past, present, or future payment for the provision of health care to an individual;~~

~~(4) "Health information exchange" means the electronic movement of health-related information among organizations according to nationally recognized standards;~~

~~(5) "Health information technology" means the application of information processing involving both computer hardware and software and other technology devices that deal with the storage, retrieval, sharing, and use of health care information, data, and knowledge for communication and decision-making;~~

~~(6) "Identified" means the same as the meaning under the Health Insurance Portability and Accountability Act of 1996, Public Law No. 104-191;~~

~~(7) "Nonprofit corporation" means a corporation no part of the income of which is distributable to its members, directors, or officers as under the Arkansas Nonprofit Corporation Act of 1993, § 4-33-101 et seq.; and~~

~~(8) "State Health Alliance for Records Exchange" means the entity responsible for the processes and procedures that enable the electronic exchange of interoperable health information in Arkansas.~~

~~25-42-105. Duties and responsibilities.~~

~~(a) The Office of Health Information Technology shall coordinate the health information technology initiatives of the state with relevant executive branch agencies, including without limitation state boards, commissions, nonprofit corporations, and institutions of higher education.~~

~~(b) The Office of Health Information Technology Coordinator shall be selected and serve in a manner prescribed by the Director of the Department of Health.~~

~~(c) The office shall:~~

~~(1) Assure the effective coordination and collaboration of~~

~~health information technology planning, development, implementation, and financing;~~

~~(2) Review all health information technology-related grant applications before submission to funding entities;~~

~~(3) Accept, receive, retain, disburse, and administer any state special or general revenue funds or federal funds specifically appropriated for health information technology;~~

~~(4) Make contracts and execute all instruments necessary or convenient for carrying out its business;~~

~~(5) Recommend to the State Board of Health regarding rules necessary to carry out the policies and objectives of this chapter;~~

~~(6) Plan, establish, and operate the State Health Alliance for Records Exchange until the time when the operational responsibility and authority for the State Health Alliance for Records Exchange is transferred to a nonprofit corporation; and~~

~~(7)(A) Establish reasonable fees or charges for the use of the State Health Alliance for Records Exchange to fund the operational costs of the State Health Alliance for Records Exchange and the office.~~

~~(B) Fees or charges established under subdivision (c)(7)(A) of this section shall be set with the input and guidance of the users of the State Health Alliance for Records Exchange, stakeholders, and other interested parties.~~

~~(C) Fees or charges established under subdivision (c)(7)(A) of this section shall not exceed the total cost of operating the State Health Alliance for Records Exchange, not including staffing costs for the State Health Alliance for Records Exchange and the office.~~

~~(D) Users of data under this chapter shall be charged in a manner that is proportional to their use of the State Health Alliance for Records Exchange.~~

~~(E) Revenue generated by the fees or charges under subdivision (c)(7) of this section shall be deposited into the Health Information Technology Fund, § 19-5-1244.~~

~~25-42-106. State Health Alliance for Records Exchange—Duties.~~

~~(a) The State Health Alliance For Records Exchange shall:~~

~~(1) Serve as the official health information exchange for the~~

~~State of Arkansas;~~

~~(2) Be organized for the purpose of improving the health of Arkansans by:~~

~~(A) Promoting efficient and effective communication among multiple healthcare providers, including without limitation hospitals, physicians, payers, employers, pharmacies, laboratories, and other healthcare entities;~~

~~(B) Creating efficiencies in healthcare costs by eliminating redundancy in data capture and storage and reducing administrative, billing, and data collection costs;~~

~~(C) Creating the ability to monitor community health status; and~~

~~(D) Providing reliable information to healthcare consumers and purchasers regarding the quality and cost-effectiveness of health care, health plans, and healthcare providers;~~

~~(3)(A) Until a nonprofit corporation operates the State Health Alliance for Records Exchange, the State Health Alliance for Records Exchange shall be established and operated by the Office of Health Information Technology with the advice of the Health Information Exchange Council, consisting of the following members appointed by the Director of the Department of Health:~~

~~(i) The Office of Health Information Technology Coordinator;~~

~~(ii) A representative of the Department of Finance and Administration;~~

~~(iii) A representative of the Department of Human Services;~~

~~(iv) A representative of the Department of Information Systems;~~

~~(v) A representative of the health insurance industry;~~

~~(vi) A representative of the Arkansas Foundation for Medical Care, Inc.;~~

~~(vii) A representative of the Arkansas Hospital Association, Inc.;~~

~~(viii) A representative of the Arkansas Medical~~

Society, Inc.;

~~(ix) A representative of the Arkansas Minority Health Commission;~~

~~(x) A representative of the Arkansas Nurses Association;~~

~~(xi) A representative of the Division of Science and Technology of the Arkansas Economic Development Commission;~~

~~(xii) A representative of the Arkansas Pharmacists Association;~~

~~(xiii) A representative of the business community;~~

~~(xiv) A representative of the Community Health Centers of Arkansas, Inc.;~~

~~(xv) A representative of the University of Arkansas for Medical Sciences;~~

~~(xvi) A representative of the Arkansas Health Care Association; and~~

~~(xvii) Two (2) healthcare consumers.~~

~~(b) The Chair of the Health Information Exchange Council shall be elected by the members of the council.~~

~~(c) All members will serve until the operational responsibility and authority for the State Health Alliance for Records Exchange is transferred to a nonprofit corporation.~~

~~(d)(1) The State Health Alliance for Records Exchange is not a healthcare provider and is not subject to claims under § 16-114-201 et seq.~~

~~(2) A person who participates in or subscribes to the services or information provided by the State Health Alliance for Records Exchange shall not be liable in any action for damages or cost of any nature that results solely from the person's use or failure to use the State Health Alliance for Records Exchange information or data that was imputed or retrieved under the Health Insurance Portability and Accountability Act of 1996, as it existed on January 1, 2011, and regulations adopted under the act, state confidentiality laws and the rules of the State Health Alliance for Records Exchange as approved by the Office of Health Information Technology or the governing body of the nonprofit corporation.~~

~~(3) A person shall not be subject to antitrust or unfair competition liability based on membership or participation in the State~~

~~Health Alliance for Records Exchange, which provides an essential governmental function for the public health and safety and enjoys state action immunity.~~

~~(c) A person who provides information and data to the State Health Alliance for Records Exchange retains a property right in the information or data but grants to the other participants or subscribers a nonexclusive license to retrieve and use that information or data under the Health Insurance Portability and Accountability Act of 1996, as it existed on January 1, 2011, and any amendments and regulations adopted under the act, state confidentiality laws, and the rules of the State Health Alliance for Records Exchange.~~

~~(f) All processes or software developed, designed, or purchased by the State Health Alliance for Records Exchange shall remain the property of the State Health Alliance for Records Exchange subject to use by participants or subscribers under the rules of the State Health Alliance for Records Exchange.~~

~~(g) Patient-specific protected health information shall be disclosed only in accordance with the patient's authorization or in compliance with state confidentiality laws and the Health Insurance Portability and Accountability Act of 1996, as it existed on January 1, 2011, and regulations under the act.~~

~~(h) No later than December 31, 2014, executive branch agencies, including state boards, commissions, nonprofit corporations, and institutions of higher education, that implement, acquire, or upgrade health information technology systems shall use health information technology systems and products that meet minimum standards adopted by the State Health Alliance for Records Exchange.~~

~~(i) All identified or deidentified health information contained in, stored in, submitted to, transferred by, or released from the State Health Alliance for Records Exchange is not disclosable under applicable state or federal law except to:~~

~~(1) A healthcare provider; or~~

~~(2) Other authorized person or entity as described by policies and rules promulgated by the State Board of Health or the State Alliance for Records Exchange.~~

~~(j)(1) Upon the transfer to a nonprofit corporation, the State Health~~

~~Alliance for Records Exchange shall be governed under the bylaws and incorporation documents of the corporation.~~

~~(2) The bylaws and incorporation documents of the corporation shall further only the objectives and policies set forth in this chapter.~~

SECTION 290. Arkansas Code § 26-57-1106(a)(2)(B), concerning the distribution of funds for breast cancer research and control, is amended to read as follows:

(B) The ~~Director~~ Secretary of the Department of Health shall be the disbursing officer for the Breast Cancer Control Fund, and the Chancellor of the University of Arkansas for Medical Sciences shall be the disbursing officer for the Breast Cancer Research Fund.

SECTION 291. Arkansas Code § 27-3-103(b)(3), concerning the establishment of the Arkansas Public Transportation Coordination Council, is amended to read as follows:

(3) The remaining seven (7) members of the Arkansas Public Transportation Coordination Council shall be:

(A) The ~~Director~~ Secretary of the Department of Human Services or his or her designee;

(B) The Director of State Highways and Transportation or his or her designee;

(C) The ~~Director~~ Secretary of the Department of Health or his or her designee;

(D) The Chair of the Arkansas Economic Development Council or his or her designee;

(E) The ~~Executive~~ Director of the Arkansas Economic Development Commission or his or her designee;

(F) The Director of the University of Arkansas Cooperative Extension Service or his or her designee; and

(G) The Chair of the Arkansas Workforce Development Board or his or her successor or designee.

SECTION 292. Arkansas Code § 27-101-405(a)(2), concerning the establishment of the Marine Sanitation Advisory Committee, is amended to read as follows:

(2) Two (2) members from the state at large to be appointed by the Governor after consulting with the ~~Director~~ Secretary of the Department of Health and the Director of the Arkansas Department of Environmental Quality; and

SECTION 293. DO NOT CODIFY. All members of the Health Information Exchange Council as of July 1, 2019 are reappointed to serve until the operational responsibility and authority for the State Health Alliance for Records Exchange is transferred to a nonprofit corporation.

SECTION 294. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the provisions of this act should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.